THE PREFERENCE SYSTEM

HEARING

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION AND REFUGEE POLICY

OF THE

COMMITTEE ON THE JUDICIARY UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

FIRST SESSION

ON

THE PREFERENCE SYSTEM

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THE PREFERENCE SYSTEM

MONDAY, NOVEMBER 23, 1981

U.S. SENATE
SUBCOMMITTEE ON IMMIGRATION AND REFUGEE POLICY
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:10 a.m., in room 5110, Dirksen Senate Office Building, Hon. Alan K. Simpson (chairman of the subcommittee) presiding.

Present: Senator Grassley.

Senator SIMPSON. Well, it has been an interesting weekend. The pay is good but the hours are extraordinarily goofy. With the veto of the continuing resolution, we now have the problem that apparently the administration witnesses feel that they are out of business today. We will have to determine whether they are being paid today. I want to find that out. So we do not have the three witnesses from the administration—the Department of Labor, Department of State, and Department of Justice.

I think I will just accept into the record the statements of the administration officials. We will do that, and then we will see if we cannot reschedule those or direct questions to them in writing. We will pick up again at 11. The agenda will remain just as you see it here before you, beginning with Mr. Berger of the Canadian law firm, then on into the panel set for 11:30.

We will recess the hearing until 11.

Thank you.

[Recess.]

[The prepared statements of Malcolm Lovell, Diego Asencio, and Alan Nelson follow:]

STATEMENT OF MALCOLM LOVELL, JR.
UNDER SECRETARY
U.S. DEPARTMENT OF LABOR
BEFORE THE
SUBCOMMITTEE ON IMMIGRATION
AND REFUGEE POLICY
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

November 23, 1981

Mr. Chairman and Members of the Subcommittee:

I welcome the opportunity to appear before you today to discuss the Administration's proposal to simplify the labor certification process whereby aliens are admitted as immigrants under the third (exceptional) and sixth (skilled or unskilled labor) preference or nonpreference categories for permanent employment in the United States. I am accompanied today by Aaron Bodin, of the Department's labor certification office.

The Administration's bill would amend section 212(a)(14) of the Immigration and Nationality Act, relating to the procedure for granting labor certifications to aliens coming to the United States for employment. Under current law, the Secretary of Labor makes determinations on a case-by-case basis, deciding in each case: (1) whether there are sufficient American workers who are able, willing, qualified and available at the time of application for a visa and at the place where the alien is to perform such labor; and (2) whether the employment of that particular alien would adversely affect the wages and working conditions of U.S. workers similarly employed. Under the proposed bill, costly case-by-case determinations would be replaced by a methodology which would use national labor market information to determine occupations

where there are not sufficient workers available from the U.S. labor force.

The Select Commission on Immigration and Refugee Policy recommended against continuation of the current labor certification procedure, arguing that the current system, is "time-consuming, costly and aggravating to all concerned." These valid criticisms arise from the requirement in our regulations that employers seeking certification of an alien must first demonstrate through recruitment efforts that they cannot locate U.S. workers. This requirement derives from interpretations by the Federal judiciary that the current law requires that U.S. workers must be willing to accept employment to be considered available. The process may be characterized as adversarial since the employer has already selected and, in many cases, hired the alien. We also suspect that many applications derive not from the employers' business necessity but from a desire to accommodate the alien. In an effort to assure a good faith test of the U.S. labor market our regulations set requirements for the recruitment of U.S. workers. We have tried to streamline this process consistent with the law, but have found it necessary to add certain requirements. For example, to assure that American workers are given a fair opportunity for employment we have had to add a prohibition against permitting the alien's attorney to interview U.S. applicants.

The current law requires for its administration a regulatory complexity out of all proportion to its intent. The result is unnecessary cost and inconvenience

to employers, aliens, U.S. workers and tax payers. For example, some 59 percent of employer applicants have found it necessary to be represented by attorneys and agents, and processing delays of more than a year are common.

Labor certification has two basic functions; first, to protect the U.S. labor force, and second to allow for the entry of needed workers into the United States. With respect to the first function, we believe the labor certification provision within the context of the present preference system has the potential for only the most marginal effect on the labor market. The number of immigrants permitted under the third and sixth preferences, which pertain to exceptional ability and skilled and unskilled labor, is 20 percent of the total current ceiling of 270,000 immigrants admitted under the preference system (54,000). Of this total, about half of the visas go to the labor market applicants being certified. The other half go to the applicants' family members. However, the preference system accounts for only about half of all immigration. It does not include refugees and those exempt from numerical limits, such as spouses, parents, and children of U.S. citizens. Thus, only about 5 percent of all legal immigrants and refugees are admitted as certified labor market participants (25,000-30,000 per year). Each year the U.S. labor force grows by approximately two million. Thus, the addition represented by third and sixth preference immigrants is small relative to the overall growth in the labor force.

With respect to the second function of the law allowing for the entry of needed workers, we believe that under the current system we lose sight of the forest for the trees by concentrating on individual employer recruitment efforts instead of allocating these scarce visas to those aliens with the most needed skills.

The Administration's proposal would allow for a more cost-effective administration of the labor certification provision and a more rational allocation of the limited number of immigrant visas for workers. It would retain the current requirement that third and sixth preference immigrants are admissible only if the Department of Labor has certified that U.S. workers are not available and that their wages and working conditions would not adversely affect similarly employed U.S. workers. It would eliminate the current time-consuming and costly process of reviewing employers' recruitment efforts and authorize the Department to use labor market information for labor certification determinations.

The Department believes that the most cost-effective implementation of this authority would be to precertify occupations for which there is an inadequate supply of U.S. workers nationally. A methodology for the production of a national list is now being developed. This list will be published on an annual basis. Appropriate existing sources of labor market information will be used. The availability of U.S. workers and potential adverse effect would be judged in the aggregate by examining the projected growth in occupational

employment, replacement demand for workers leaving occupations, the number of people being trained in given occupations, and similar labor market information. Precertifying aliens of exceptional ability, intracompany transferees, religious workers, and aliens whose employment is necessary to national security or defense would be included as separate categories. The Department would also consider petitions to have occupations not identified by this methodology added periodically to this list.

The methodology is being developed with several considerations in mind:

1. In periods of high unemployment, unskilled jobs would generally not be certified. Certifications in these occupations at such times would adversely affect U.S. workers because a pool of unskilled workers would be available and unemployed skilled workers might have to "drop down" in skill level to take another job. In certain unskilled occupations, however, aliens may not directly compete with American workers, such as live-in household workers, which have accounted for over 15 percent of all labor certifications in recent years. During periods of high unemployment, occupations generally requiring less than one or two years of training or education beyond high school will also probably not be certified.

2. Determinations regarding sufficiency of workers will be made only at the national level, and not by region or locality. In order to encourage employers to recruit and train employees from other parts of the country where surplus labor is available rather

than bring in workers from abroad, certifications will not be made for occupations to fill regional or local shortages. Regional imbalances should be corrected rather than aggravated by utilizing the U.S. labor force to the extent possible rather than by bringing in foreign workers. Further, since the demand for sixth preference aliens in recent years has exceeded the available numbers that may annually be admitted under the preference system, we believe that the highest priority for allocating these preference numbers should go to aliens in occupations with a national insufficiency of U.S. workers.

3. Adverse effect would be determined in the aggregate rather than on a case-by-case basis. The admission of a limited number of aliens into a "shortage occupation" would not adversely affect U.S. wages and working conditions. Even if some immigrants were to start at a wage below the prevailing rate, wages in those nationwide shortage occupations could be expected to rise rapidly because of the demand for their skills. If it became clear that too many workers were entering a particular occupation, the Secretary could remove the occupation from the shortage list.

4. The Department would issue regulations specifying the methodology to be used to develop the list of occupations certified to have an insufficient supply of U.S. workers. The public would have an opportunity to comment initially on the methodology used by the Department. The public would also have the opportunity to comment on the list of shortage occupations and recommend additions and deletions.

Ideally, under this proposed system, only aliens with job offers in, and who qualify for, occupations in short supply would be certified. However, the Department would retain the authority to make individual determinations in order to determine the potential displacement of and adverse effect on American workers by the employment of aliens in certain occupations. Because case-by-case review is necessarily labor intensive and costly, the Department would seek to minimize this activity. It would also continue to have the authority to develop a list of occupations for which there is clear evidence that there are sufficient U.S. workers available to perform the work with little or no training. Occupations on this list would not be approved. The Department would be authorized to use labor market information in making determinations with respect to occupations not on either list.

The Department is confident that this methodology represents a reasonable balance between cost of implementing the methodology and Congressional intent that employment of third and sixth preference immigrants not have an adverse effect on U.S. workers.

More generally, the Department supports current numerical restrictions and the predominately humanitarian goals of U.S. immigration and refugee policy as expressed in the present preference system and the 1980 Refugee Act.

Unlike some critics of the current system, the Administration does not believe the fifth preference for brothers or sisters of U.S. citizens should be eliminated. The Administration also does not believe

that the proportation of immigrants screened for labor market impact should be increased, or that prospective immigrants seeking admission as relatives, refugees, or needed workers should be screened by additional selection criteria, as in a point system approach to the admission of immigrants.

Critics of our current policy have suggested such changes on both quantitative and qualitative grounds. With respect to the question of numbers, however, it is important to recognize that current policy imposes numerical as well as qualitative restrictions on all admissions, except those for immediate relatives of U.S. citizenship. Thus, the well known multiplier or snowball effect of the fifth preference affects only the number of aliens eligible for admission as immigrants; it does not affect the number of actual immigrant admissions. In our view, the multipler effect of an immigration policy that favors family reunification reaffirms our need for annual numerical limits; it does not point to a problem with our qualitative criteria for selecting immigrants.

In fact, virtually any set of qualitative criteria --that is, virtually any preference system--is likely to generate a far larger pool of eligible aliens than are likely to be admitted without an adverse effect. Therefore, numerical limits must be an integral part of our immigration and refugee policy as they have been for more than half a century.

Turning now to the question of changing the quantitative criteria as expressed in the current preference system, it is clear that unless the number of immigrants

admitted under the preference system is increased, the proportion of immigrants screened for labor market impact can be increased only by reducing the number of visas now allocated to relatives, or by screening all or some class of relatives for labor market impact.

The Administration believes that an increase in legal immigration at this time is unwise, and that a reduction in the number of immigrants' relatives or a requirement that they be screened for labor market impact is unnecessary.

Unlike immigrants of a century ago, immigrants arriving under the current system, which strongly favors relatives, are generally as diverse as the U.S. population and labor force in terms of age, sex, education, labor force participation and occupation. For example, the occupational distribution of immigrants at the time of entry during the period from fiscal year 1975 to 1979 was 31.6 percent in professional and managerial occupations, 13.2 percent in clerical and sales workers, 11.7 percent crafts workers, 24.9 percent in other blue collar occupations, 13.7 percent in service occupations and 4.8 percent farm workers. The occuptional distribution of the U.S. labor force in 1980 was 27.2 percent in professional and managerial occupations, 24.9 percent in clerical and sales worekrs, 12.9 percent crafts workers, 18.6 percent in other blue collar occupations, 13.3 percent in service occupations and 2.8 percent farm workers. The demographic and socio-economic charteristics of recent immigrants, who are for the most part admitted as relatives of U.S. citizens or permanent resident aliens suggests that they are

generally readily absorbed into the U.S. economy with minimal labor market impact.

For the most part, however, the economic impact of immigration is a function of its size relative to the size of the resident population and labor force. Thus, the primary consideration in assessing the labor market impact of recent immigrant flows is the size, rather than the characteristics, of such flows. So long as these flows are relatively small--and even recent refugee-swollen immigration accounts for only 15 percent of the annual increase in the size of our labor force--the impact of such flows will also be small.

Given the current charteristics and size of legal immigration, a reduction in the number of relatives admitted under the preference system, or additional screening of relatives, is an unwarranted interference with family reunification as well as an unnecessary administrative burden to the Government.

This concludes my statement. I will now be pleased to answer any questions you may have.

DEPARTMENT OF STATE

Washington, D.C. 20520

STATEMENT OF

THE HONORABLE DIEGO C. ASENCIO

ASSISTANT SECRETARY FOR CONSULAR AFFAIRS

Mr. Chairman, Members of the Subcommittee, I am pleased to appear today to discuss -- within the context of the President's comprehensive reform of foreign entry into the United States -- two very fundamental aspects of legal immigration: the numerical limitations and the manner of selecting immigrants; i.e. the preference system. These two elements of our system are closely related in most minds, but each can, and should, be considered separately. The system of numerical limitations establishes the number of immigrants we desire to accept and is thus quantitative in nature; the preference system is a qualitative determination of the kinds of immigrants who should make up the total. Each could be changed without change in the other.

As you know, the Select Commission on Immigration and Refugee Policy made a number of far reaching recommendations concerning both subjects. If adopted, they would make far-reaching changes in both elements of our system. The President's Inter-Agency Task Force on Immigration and Refugee Policy carefully considered the Select Commission's recommendations and concluded that it should not espouse them. Instead, as part of the President's program, the Administration has proposed a single change in the existing system of numerical limitations and does not propose any changes in the immigrant selection (preference) system. We believe that this proposal, which should be considered in conjunction with the rest of the President's program, will supplement the tools with which this nation can begin to address the multiple problems posed by illegal immigration.

The Administration proposes to establish separate limitations of 40,000 each on immigration from our two continental neighbors, Canada and Mexico. Under this proposal natives of each country would compete only among themselves for immigration. Each country's 40,000 limitation would be separate not only from that of the other country but also from the rest of the world. The existing preference system would apply to each of these limitations so that the same immigrant selection system would apply to each country and each of the limitations would be apportioned among the preference classes in the same manner as at present. I should emphasize that this proposed change would not result in any meaningful reduction in immigration from other areas of the world, since the numerical limitation for all other countries would be established at 230,000.

An added feature of our proposal is that there would be provision for the unused portion (if any) of either of the two 40,000 limitations to be used by natives of the other country. This provision would operate as follows. In the first year of operation, the limit for each country would be 40,000. If, for example, during the first year, immigration from Mexico under its limitation reached the full 40,000 and immigration from Canada under its limitation reached just 25,000, then in the second year the limitation for Canada would remain at 40,000 and the limitation for Mexico would be increased to 55,000 - the basic 40,000 plus 15,000 (the difference between Canada's limit in the previous year and its actual usage in that year). This calculation would be made every year and the addition, if any, could be made to either limitation, depending upon the actual usage in a year under each limitation. In fact, theoretically, there could be a year in which both limitations were increased if there had been a shortfall under both limitations during the preceding year. This latter situation, although legally possible, would appear to be unlikely.

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The President's proposal takes into account the very special and unique ties - social, economic and cultural - which exist between the United States and its two contiguous neighbors. The proposal represents an additional element in this Administration's concerted and integrated plan to regain control over our borders. The increased limitations for Canada and, particularly, for Mexico would reflect our close relationships while providing an additional opportunity to reduce or deter illegal immigration by opening a supplementary channel for legal immigration to the United States.

This concludes my prepared remarks, Mr. Chairman, and I am ready to respond to any questions you may have.

TESTIMONY

OF

ALAN C. NELSON
DEPUTY COMMISSIONER
IMMIGRATION AND NATURALIZATION SERVICE

Mr. Chairman and members of the Subcommittee.

I am pleased to have the opportunity to appear before you again to testify on behalf of the Administration's proposals for immigration reform. This afternoon I am here to discuss overall numbers of immigrants and the preference system.

As you know, the amendments to the Immigration and Nationality Act enacted on October 3, 1965 instituted the current system for admitting immigrants. Immigration from the Western Hemisphere, on which no restrictions had previously been placed, was limited to 120,000 per year.

With respect to immigration from the Eastern Hemisphere, an annual limit of 20,000 visas per country was established. In addition, each colony or dependency of an independent country of the Eastern Hemisphere was limited to 200 visas per year. The 1965 amendments also provided for seven preferences and a nonpreference

classification to select qualified immigrants from the Eastern Hemisphere. A percentage of the 170,000 visas available to immigrants from that hemisphere each year was allotted to each preference. Immediate relatives of United States citizens and certain special immigrants such as ministers of religion and employees and retired employees of the United States Government abroad, however, were exempt from any numerical limitations.

The 1976 amendments to the Act, effective January 1, 1977, extended the preference system and the annual per country ceiling of 20,000 per year to the Western Hemisphere. They also increased the ceiling on colonies and dependencies to 600 per year.

The Refugee Act of 1980, enacted March 17, 1980, adopted the definition of "refugee" agreed to by the United States as a party to the United Nations Protocol Relating to the Status of Refugees. That definition has no geographic or ideological limitations. The Refugee Act also provided that each year the President determines the number of refugee admissions and their allocation among countries, after appropriate consultations with members of Congress. As a result of this Act, the prior seventh preference, which related to conditional entrants from the Middle East or Communist or Communist-dominated countries, was eliminated.

In Fiscal Year 1980, 234,200 refugee admissions were authorized, and 213,950 refugees were actually admitted to the United States. In Fiscal Year 1981, 217,000 refugee admissions were authorized, while only 158,531 refugees were admitted. In the annual consultations with Congress conducted in September, the Administration indicated its intention to set a maximum level of 173,000 refugee admissions for Fiscal Year 1982. In his testimony before the Senate Judiciary Committee on September 22, 1981, the Attorney General stated that "the Administration has given serious consideration to the domestic impact of the recommended level of refugee admissions." He referred to the domestic difficulties which have arisen in the resettlement process and the budgetary implications at the federal, state, and local levels. He said that

the "proposed admission levels have been set as low as possible in light of urgent foreign and humanitarian policy considerations and that every effort will be made to implement the program at an even lower level in terms of actual admissions." Following the consultations between the Administration and Congress, 140,000 refugee admissions was established as the level for Fiscal Year 1982.

The Administration opposes any type of overall cap on immigrant and refugee admissions as impractical, not in the interest of the American people, and restricting Presidential authority to respond to certain foreign policy crises.

1) In the first place, we have a Congressionally established ceiling on numerically limited immigrants. Secondly, we have a cap on refugee numbers that results from the annual consultation between representatives of the President and the Judiciary Committees of Congress. In emergencies, this cap can be raised after a renewal of the consultation process in which the President's representatives explain the reasons for the intended increase, and Congress can query and challenge the basis for the intended action.

2) If there were an overall cap such as has been proposed by Senator Huddleston, any additional numbers for refugees would have to come at the expense of the numerically restricted immigration, either in that year or the next. After World War II, we admitted refugees and saw the negative effects of borrowing ahead on the immigration quotas of future years for certain countries. We do not believe that the American people nor Congress would want to return to that. Should it be enacted, the pressure on the President and Congress not to interrupt the anticipated flow of immigrants by exceptional refugee circumstances would be an unwarranted constraint on our foreign policy actions.

3) Certainly no one proposes to place a curb on the prompt immigration and reunification of immediate family members of U.S. citizens.

The Administration believes that the actions of Congress

regarding immigrants, and the President and Congress regarding refugees, serves to reflect the national interest as to the levels of immigrant and refugee admissions. A procedure is available to lower the refugee admissions without the imposition of a cap, which seems certain to be arbitrary and disruptive in its results on family reunification and the foreign policy aspects of refugee admissions. Furthermore, the ceiling on numerically restricted immigration can be changed through legislation.

The Administration finds that the existing laws relating to the overall number of immigrants who can be admitted each year and the system under which immigrants and refugees are submitted are sensible and workable and should not be changed. There are, however, two areas where modifications are recommended. The present per country ceiling on visas for Canada and Mexico needs to be increased. In addition, the labor certification procedure should be simplified by using an annual Department of Labor list of occupations for which a sufficient number of United States workers are unavailable, instead of an individual job offer labor certification in each case.

The Administration has recognized that the present annual country ceiling on immigration from our two closest neighbors is unrealistic and should be increased. The extension of the 20,000 per country annual ceiling to the Western Hemisphere caused particular hardship to Mexico. The combination of the imposition of the per country ceiling and the preference ceilings on immigration from the Western Hemisphere has caused very long waiting lists for visa numbers for individuals born in Mexico. The second preference waiting list for Mexico is extremely long, but there are also long fourth, fifth, and sixth preference waiting lists.

The proposed legislation would create separate annual numerical limitations of 40,000 each for Canada and Mexico and would increase all numerically limited visas from 270,000 to 310,000 per year. Qualified immigrants from each of the two countries would compete for visas only among themselves. If, in any fiscal year,

immigration from either country were to fall below 40,000, in the next fiscal year the limitation for the other country could be increased by an amount equal to the shortfall. If immigration from both countries were to fall below 40,000 in any fiscal year, both countries would be entitled to an increase in the following fiscal year. I do not, however, expect this to happen.

The proposed legislation recognizes our special relationship and common borders with our closest neighbors. It also would provide a realistic alternative to illegal immigration.

I will leave to the State Department a discussion of the expected outcome of the proposed changes, except to state that they would allow the entry of both Mexican and Canadian nationals who, under the present preference system arrangement and country ceilings, either cannot enter or must face long waiting periods for visa numbers.

In his statement on July 30, 1981 before a joint session of this Subcommittee and the Senate Subcommittee on Immigration and Refugee Policy, the Attorney General indicated that the present labor certification procedures are time-consuming and costly. He stated that the proposed procedure of having the Department of Labor publish a list of occupations for which domestic workers are not available would "continue to provide protection for American workers while simplifying the procedure for both employers and prospective immigrants." We defer to the views of the Department of Labor, however, concerning the specific details of the proposed legislation on the labor certification process.

The Administration's proposed changes regarding increased visa numbers for Mexicans and Canadians and the labor certification process are part of a total program of immigration reform and should be considered from that point of view. I will be happy to answer any questions about them.

OPENING STATEMENT OF SENATOR SIMPSON

Senator SIMPSON. The hearing will come to order.

We will proceed on the issue of the preference system. I think it is clear that America cannot follow an open border policy. There are apparently a few economists who advocate the free movement of peoples across borders, but I think it is inevitable that this would result in a deterioration of conditions in the United States to something of a situation like the lowest common denominator.

I cannot perceive how the United States or even the world as a whole could supply just the capital necessary to generate a U.S. living standard for every person that does not now have it, even if we were to make an assumption that our institutions would prevail in an open border policy.

Since the United States cannot accept all those who would wish to come, the following very real questions then come to us:

How many immigrants should be admitted?

Which applicants should be given preference?

How should the U.S. enforce the policies which are adopted?

The enforcement issue has been addressed by the subcommittee in past hearings. The issues of numbers and population policy will be the subject of a hearing in December.

So today's hearing will focus on the second question: Which applicants should be given preference?

Under present law less than 5 percent of all of this Nation's new permanent residents, including refugees and others adjusting their status, have been admitted for individual qualities which would promote the national interest, and this is limited only to an analysis of job impact.

It is a tough one. I very much support family reunification. That is our strong suit. But we must determine what share of all immigrants should be represented by persons admitted for family reunification.

There seems to be some support for the concept of increasing the percentage of immigrants selected for skills and traits likely to benefit the United States. In any case, I do feel that family preference categories should be based on the U.S. concept and definition of a nuclear family and not on the definition of such a family as expressed in other nations.

In order to broaden the criteria for admission of independent immigrants beyond purely job-related criteria, some degree of preference might be given to those with skills and traits which would increase their opportunity for success in this country, as is done by other major immigrant-receiving countries such as Canada and Australia. These countries use a point system which considers traits relative to ability to work and ability to integrate into society, such as job skills, education, and English language ability.

I feel that the American people would be disposed to give preference to persons who intend to transfer their full allegiance to the United States and its institutions through the process of becoming naturalized citizens. I think that would be a likely result as I perceive it.

And I think that we seem to often forget that the ability to read, write, and speak some English is a present naturalization require-

ment, as is a knowledge and understanding of the fundamentals of history and of the principles and form of government of the United States. That is existing law.

So we, I think, must always reflect that immigration has obviously its social and political as well as its economic impacts; and we will, of course, pursue that in the subcommitte hearing in December. But for now we will see where we are with the preference system.

We have with us a witness, Mr. Berger, of the law firm of Berger & Winston, of Montreal, Canada, Mr. E. M. Berger. It is a pleasure to have you here, sir. And I am going to extend the time for your remarks so that you might give us the benefit of your views on the system in your country, and then we will have questions. So I am going to broaden the time for your presentation to 15 minutes. I think I would appreciate that at this time. Thank you very much, sir, for being here.

STATEMENT OF E. MICHAEL BERGER, ATTORNEY, BERGER & WINSTON, MONTREAL, CANADA

Mr. BERGER. Mr. Chairman and members of the subcommittee, I would like the record to indicate that I do not speak for any official department or agency or for any organization or group. Although I am the only Canadian lawyer who is a member of the board of governors of the American Immigration Lawyers Association—the ILA is our acronym now—formerly the Association of Immigration & Nationality Lawyers—I do not represent that association at this hearing.

I am senior partner in a Montreal law firm which has a general law practice, including considerable Canadian immigration and U.S. visa processing. I appeared before a similar committee last September and thank you for inviting me to appear again, again at my own expense.

Senator SIMPSON. A very timely observation.

Mr. BERGER. I thought about your problems.

You asked that this presentation concern itself with Canada's point system of selecting immigrants. Accordingly, you have before you an eight-page presentation to which I have attached three annexes; and I will ask you to please turn almost immediately to page 4. The first page consists of a preamble, pages 2 and 3 deal with family class applicants, and dependent applicants and convention refugees; and page 3 says the following: In October 1967 the Canadian Government first introduced the point system as the basis for selecting independent immigrants to Canada. Remember, we are talking about independent immigrants, including the assisted relative categories that includes, if you will go back when you have more time, brothers, sisters, uncles, aunts, nephews, nieces.

THE POINT SYSTEM—UNIVERSALITY

This legislation set universal standards and norms which enabled Canadian immigration officers to apply the same principles of selecting independent immigrants without regard to the applicants' ethnic origin or geographic location, and which eliminated discrimination on grounds of color, ethnic origin, nationality, race, reli-

gion, or sex. At the same time it linked Canada's immigration requirements to labor force opportunities.

This is a constant as far as independent applicants and assisted relative applicants are concerned.

In October 1978 amendments to the point system resulted in the weighting being shifted from academic background to vocational training or experience in order to more easily attract skilled persons able to enter Canada's labor force. By bringing immigration more in line with Canadian labor market needs and by placing more emphasis on practical training, experience, and capability, employment-related factors now account for almost one-half of the total possible rating points that can be awarded to the independent applicant. Actually, it is 48 percent.

In contrast to your system, Canada's parliamentary system permits the Minister of Employment and Immigration, who has the responsibility of implementing our immigration policy, it permits him to react quickly to emergency situations which arise. And by order in council—that is, a Cabinet decision—to create norms for the rapid admissibility into Canada of refugees on a broad scale or to admit on humanitarian grounds people who are not refugees within the convention definition, or to admit classes with selection criteria tailored to meet special circumstances. The government of the day is also, by regulation, able to vary the weighting of points in order to respond to shifts in population needs or changes dictated by economic or other factors.

Under the point system, if a person qualifies for admission, an immigrant visa may issue in as little as 4 months, and generally speaking in no more than 7 or 8 months. We do not have the delays produced by the U.S. preference system and its nonavailable visas for those in the nonpreference categories. We can admit within a space of 4 or 5 months an investor or a retiree.

We have in our office maybe 22 cases of retirees with priority dates going back to 1976 or 1977, and since they are in the nonpreference category, we simply say, "We do not know when you will get your visas."

And our association has made representations to this committee from time to time that this is an anachronism. It is an unreal aspect of your policy, and you should address yourselves as a matter of urgency to creating a special category or to allocating numbers to those who qualify in the investor category or in the retiree category, because these are going to be taxpayers in your country, they are going to be producers of revenue, they are going to be producers of consumer demand.

We have the case of a Chinese individual from Taiwan who cannot leave the United States because he cannot get a valid visa to return. He is buying a motel operation near Montreal for $1,800,000. He has $565,000 available. We processed his case in 5 months. He has not yet invested a nickel. He has the option to purchase. He is coming into Canada at the end of this month with his wife and two children.

The attitude that was adopted by the Quebec Immigration, because we have to get approval from them if he is coming to Quebec, and by the Federal Government was this: A man with this experience and this capacity to adjust to the United States and make a

living is not going to be a burden to Canada. Let him come in. If he does not buy this motel, he will buy something else. We are not worried. Bring him up. And I say we did that in about 5 months.

You are making a mistake if you insist on keeping these people in the nonpreference category. I did not come here to lecture, but I feel rather upset about this because this is an obtuseness which I think you should try to get the present administration to change.

OCCUPATIONAL LABOR DEMAND IS ESSENTIAL

Now, if the applicant does not receive one unit for occupational demand where demand is a factor or is not awarded the minimum total units of assessment, he is rejected on the basis of paper screening and is not requested to attend for an interview. The case is closed. There is no appeal. If he is granted an interview, it means the case is accepted for processing and can be disposed of in 4 or 7 months as already indicated. A visa officer may issue an immigrant visa to a person even though he does not have the necessary units of assessment if, in his judgment, he feels that that person has other qualities which will enable him to adjust satisfactorily to Canada.

He has a similar discretion if he feels that even if the person gets more than 50 units somehow or other this person may not adjust successfully to Canada. In each instance we take for granted that background security checks and medical clearances will be obtained.

As I say, I want you to switch now to page 6. I call your attention to the fact that Canada is probably the only country in the world in which the Federal Government shares its jurisdiction in the field of immigration with its 10 other Provinces. This is a case where we are overly blessed with other government participation.

IMMIGRATION INTO QUEBEC

The Department of Employment and Immigration has entered into individual contracts with all 10 Provinces of Canada. Only the Province of Quebec has set up its own department of immigration. But a person who is coming to Quebec, we have to get approval from both the Quebec government and the Federal Government.

Quebec uses what it calls a grid system or 102 units of assessment, but its weighting is different. I have attached, as I say, three annexes. One gives you a summary of the point system. The second annex gives you the actual sample score sheet of the federal employment evaluation. And the third annex gives you the Quebec grid.

How it weights, an example, if you speak English or French fluently, Canada will give you 10 units of assessment. If you speak French fluently, Quebec will give you 12 units, plus 2 if you speak English. It will give you a bonus if you are coming in—if you are a married person with two children, it will give you 4 units as a bonus.

A word about the immigration law and future considerations. You will find that on pages 6 and 7. And I address myself to the second paragraph on page 7. It is expected that selective resort to immigration will continue to be required to meet peak load and un-

foreseen requirements in the labor force. It is expected that there will be an annual average intake of between 20,000 to 25,000 selected workers over the next decade per annum, including 50,000 to 60,000 independents and assisted relatives, and exclusive of the family class applicants.

Thus, although immigration will continue to be used in a selective way to meet labor market needs which cannot be satisfied domestically, there will be no inclination to resort to large-scale immigration as a means of dealing with Canadian imbalance in the supply of and demand for labor.

We go on to the bottom of page 7. I state that independent landings in 1978 numbered only 19,000 and in 1979 26,000. These are the latest figures available. Family classes, 42 percent in 1979; assisted relatives, 10 percent; refugees, about 30 percent.

PERMANENT ADMISSIONS 1981–83

The federal government has determined that it would be appropriate to admit between 130,000 to 140,000 immigrants during 1981. We now have gone from an annual assessment of admissible immigrants to a 3-year projection, as a result of which there will be approximately 140,000 admitted in 1981, 138,000 in 1982, and 145,000 in 1983. That includes all categories and refugees, except now we have reached the limits unless other circumstances dictate.

Do you want me to stop now?

Senator SIMPSON. Yes, if you would, and then I have some questions.

We are advised that Canada is considering some changes in the point system method. Could you summarize any of the changes that are in the mill right now and the reasons for them?

Mr. BERGER. There is at this stage no basic change contemplated in the point system as such. There is talk of amending legislation insofar as the admissibility of domestics are concerned. Domestics now cannot be granted immigrant visas to come to Canada, especially if they are young and have children back home. Legislation is contemplated to do something for them.

If there is any difference in the weighting of the point system, it again will be in favor of skilled personnel coming to Canada. But it is like so much of the discussions in your own country. they are recommendations, but it is not legislation. But if it does become legislation, I can let the committee know within 24 hours.

Senator SIMPSON. If you would keep the staff advised, that would be very greatly appreciated.

Mr. BERGER. That is possible.

Senator SIMPSON. What kind of a mix of family immigrants, skilled workers, and unskilled workers is resulting from the present system in Canada?

Mr. BERGER. Canada is still dedicated to the concept of family reunification. This is a given. This is a constant, and we will not change that at the present time.

Senator SIMPSON. At the present time.

Mr. BERGER. Yes. And again, this is built into this 3-year projection that I mentioned just 1 minute ago. We are talking about now through 1983. We will limit the ceiling of independent applicants,

including assisted relatives, to 20,000 to 25,000 per annum. We will admit approximately 16,000 refugees a year, which gives you a total of 41,000. We will admit approximately 10,000 to 12,000 entrepreneurs and investors, and the bulk of the others will be family class applicants.

Senator SIMPSON. I realize this is not an immigrant issue, but what is your figure on Indochinese refugees?

Mr. BERGER. Are you talking about the boat people?

Senator SIMPSON. Well, Indochinese, however you would refer to it. How many are you taking into Canada at this time?

Mr. BERGER. Well, let me see if I have the figure here. I know we admitted approximately 60,000 boat people. Our Minister has said that over the last 5 years Canada has resettled more refugees per capita than any other country. This makes us one of the three chief immigrant and refugee-receiving nations in the world. The others are the United States and Australia.

He also said, incidentally, that we are going to double the status of availability of foreign posts so that family class members and workers with prearranged employment can be processed instead of in 201 days, which is the processing time now, to as little as 159 days, which is a very, very substantial rate of processing.

IS LANGUAGE A SOCIOPOLITICAL PROBLEM

Senator SIMPSON. Is there any concern in your country about the ability or willingness of immigrants to learn English or French and otherwise assimilate or integrate into the Canadian society; and if so, does your system address that issue?

Mr. BERGER. We have had no trouble, no trouble at all. We give units of assessment, as I said before, for language. If you look at the first annex there which gives you the selection criteria, you will see 10 units for language, if you speak both English and French.

Do you see this form called "Immigration Selection Criteria," knowledge of English and French, that is category 8 or factor 8. It gives you a maximum of 10. We do not require it then in the assisted relative category, for example. This is one where I say Quebec will give you 12 units if you speak French, plus 2 units if you speak English.

Senator SIMPSON. Let me rephrase that. In this country we have witnesses who have testified about a concern about the ability or willingness of immigrants to learn the English language and otherwise assimilate or integrate into the "American society," public society.

Do you have those concerns in your country?

Mr. BERGER. I would say no.

Senator SIMPSON. OK.

Mr. BERGER. As a matter of fact, in the province of Quebec where we have a genuine problem with the question of bilingualism or unilingualism, the most vocal, positively aggressive, positively aggressive elements in our community have been the Italians and the Portuguese and the Greeks who want to really learn the English language and who want to be bilingual. We have no problem as far as integrating languagewise into our society.

LANGUAGE AND THE POINT SYSTEM

Senator SIMPSON. Can an immigrant receive enough points under the schedule without any English or French language ability?

Mr. BERGER. It would be difficult, because he would not be able to really meet the criteria of occupational demand. If he came in—take a Portuguese farmer with 4 years of education coming to Toronto—not Montreal but coming to Toronto—who cannot speak the language, he is not going to farm, he wants to get a job as a mechanic or even as a dishwasher, until he becomes at least slightly capable of understanding the English language, he will be refused because he will not be adaptable to Canadian needs. But if he presents himself 2 years later with knowledgeability, the fact that he has been once refused will not count against him. We will keep the file open for 2 years. And by "we" I mean the immigration office will keep the file open for 2 years.

IMMIGRANT EMPLOYMENT IN PRACTICE

Senator SIMPSON. What standards are used to determine that sufficient Canadian workers might not be available for a particular occupation, and does the employer have to show that he cannot afford to pay a wage adequate to attract sufficient Canadian workers, or do they have to show that they have attempted to set up training programs? Exactly what is that standard?

Mr. BERGER. Yes. He has to first of all place what we call a job order with the employment service. He has to in that job order state the salary, the working conditions, and the job requirements. We have a computer system whereby the entire Canadian market can be canvassed within the space of 24 days, and under our system as well if a likely candidate can be found, let us say in Vancouver for a job in Montreal, the Government will fly him in for an interview at Government expense to see if he will fit into that job. If it can be found in St. John's, Newfoundland or Halifax, Nova Scotia, similarly the government will so act.

But this includes your whole labor certification service. I say we can dispose of it in 4 or 5 weeks, and if a person cannot be found, then the application will be approved either for temporary or permanent, depending upon who has asked for it.

Senator SIMPSON. Within that comparatively short period of time?

Mr. BERGER. That is right, that is right. And if necessary, as well, even if he is coming up for a job to fill a position that he has not filled before and, therefore, did not qualify as an intracompany transfer. His job application was submitted on a form we call 2151. The job market was screened in 5 weeks. It is a permanent position. They wanted him in a hurry. The Department authorized on October 22, to tell the employer he could announce at a public meeting to be held that week that this person is going to come up to fill a very important job at a salary of $50,000 a year plus. He was issued a temporary Minister's permit valid for 6 months and was able to come into Canada and be presented at that public meeting in Calgary, Alberta, which ended on October 25, and is now working in Montreal.

During that 6 months his application for permanent residence will be processed. He will go back to New York, pick up his visa, turn around and come in as a landed immigrant within the next 3½ to 4 months. So that he will have had labor certification, all your employment approval, his medical and his background security checks. In the meantime, as I say, he is legally in Canada working and is to do anything called for in his job.

Senator SIMPSON. OK.

Mr. BERGER. Excuse me. He qualified under the point system. He had to.

Senator SIMPSON. I would assume so.

How does your Canadian immigration law define a child? Is that a son or daughter under 21 or under 18?

Mr. BERGER. Let me look in the bible, if you do not mind.

Senator SIMPSON. I just was curious. You can furnish that for the record at a later date or time if you wish. I was just wondering if you had it.

Mr. BERGER. A child matures at age 18 but becomes independent for immigration purposes at age 21. A child of 18, for example, can sponsor an immigrant, and a child of 18 can sponsor her husband.

We talked about the issue of marriage or a person who is adopted at age 13.

SOME ANALYSES OF THE POINT SYSTEM

Senator SIMPSON. Let me ask you this. In your statement you indicate that employment-related factors now account for almost one-half, 48 percent of the total possible rating points that can be awarded to the independent applicant. What percent of the total must an applicant receive in order to be admitted? Is it possible to have enough points without any from that employment-related factor category?

Mr. BERGER. Only in the family class, and only in the refugee class. Otherwise, no, you have to have at least one point for what is called occupational demand. It would not apply, of course, in the case of an entrepreneur.

Senator SIMPSON. That is a 15-point category, isn't it, occupational demand?

Mr. BERGER. You are looking at the entrepreneur class?

Senator SIMPSON. No. Just looking at your general selection criteria under factor 4, and it says maximum points 15 there.

Mr. BERGER. Well, if you look at the second column there, look at the category called entrepreneur, you will notice that he does not have to qualify under occupational demand which is 15 points, and he does not have to qualify under arranged employment. Because he is an entrepreneur he is going to give employment, so he gets a bonus of 25 units. He only needs 25 units of assessment out of 75 in order to qualify. But, you see, if he gets 12 units for education and only 3 units for SVP, which gives you 15, and 5 points for experience, which gives you 20, and he is, let us say, 40 years of age, so he gets 5 units for 25, and he has a knowledge of English, forget about French, which gives you 30, this fellow is going to qualify without any difficulty.

Those blank spaces that you see right across those four lines to the right of the grid are actually bonus points. And if you will deduct those from 100, you will see in some cases you only need 25, in some cases you only need 40, in some cases you only need 35 or 30 units of assessment.

Senator SIMPSON. It is a very interesting criteria. I am fascinated by it.

But one final question. You state that discretion is built into the system and that visas can be issued even if the minimum number of points is not obtained and it could be denied even if the minimum number is obtained.

How often is that discretion exercised? Is that a common thing?

Mr. BERGER. I am not aware of any statistic. In our experience it has been.

Senator SIMPSON. Could you furnish that for us and try to find that out?

Mr. BERGER. I will try to furnish it. I do not know if it is available. I will try to find out.

Senator SIMPSON. Well, you have been very helpful. That discretionary business, we had something like it on our books years ago in this country; it was called parole authority. It was never intended to exceed several thousand a year, but it did by leaps and bounds, an extraordinary misinterpretations of the definition of parole authority. I just would be interested in your figures.

Mr. BERGER. We are not talking about parole. Parole is temporary. I am thinking in terms of an immigrant visa or a person who can come in for permanent admission.

Senator SIMPSON. When you get into the area of discretion are you talking about refugees or immigrants or nonimmigrants? I would be interested in that.

Mr. BERGER. It does not apply to refugees, but I will try to find this out for you.

Now, you were asking me about admission of Indochinese?

REFUGEE ADMISSIONS

Senator SIMPSON. Yes. What are the numbers?

Mr. BERGER. Here is a statement released from the Ministry of Employment and Immigration dated November 2d, 1981, and is speaking specifically about refugees. Indochina in 1981, 8,000; in 1982, 4,000.

I have five categories. Do you want me to list them?

Senator SIMPSON. If you could just submit that for the record, I think we had better move on, Mr. Berger. I thank you, though.

I want to thank you very much for appearing here and for your help. You have been of great help to the staff. I guess the final question to you with your tremendous background and experience working with the point system is: Do you think it works?

Mr. BERGER. We think it works because it is objective, it is not biased, it is dispassionate, it is almost mathematically precise because there is only one area where subjective judgment comes in and this is for 10 or 12 points: what is the opinion of the immigration officer as to my capacity to adjust to Canada, which relates to one of the questions you asked earlier when you were talking about

langauge. Otherwise it is almost mathematically ascertainable. This is why I think it works.

Senator SIMPSON. Well, I thank you very much, Mr. Berger. You have been very kind, very helpful. Thank you.

[The prepared statement, with annexes, of Mr. Berger follows:]

PREPARED STATEMENT OF E. MICHAEL BERGER

(THE CANADIAN) IMMIGRATION ACT, 1976

PREAMBLE

In 1976 a new immigration Bill was tabled before Parliament and was promulgated, coming into effect on April 15, 1978. This was the culmination of years of work and study and reflected the results of consultations with all provinces of Canada, concerned organizations and members of the public.

The former Act (1952) no longer mirrored Canada's contemporary attitudes, aims and needs. The new Act explicitly affirms the fundamental objectives of Canadian Immigration Law, namely family reunification, non-discrimination in selection of immigrants, concern for refugees and the promotion of Canada's economic, social, demographic and cultural goals. It removes the inequities of the old Act and provides a modern, flexible framework for the future development of immigration policy. The prohibited classes in the former Act were harsh and out of tune with modern Canadian values; the new Act defines the inadmissible classes in accordance with objective criteria reflecting current attitudes and knowledge.

The former Act prohibited the admission of epileptics and the mentally ill; it took a harsh approach to deportation; on the other hand, it did not envisage the threat to peace and security posed by international terrorism and organized crime. Hijackers were still an unknown hazard.

The former law was silent as to the number of immigrants Canada could comfortably absorb during any given period of time. This resulted in a widely fluctuating number of immigrants being admitted from year to year. In 1957 a high of 282,000 immigrants were admitted, whereas in the early Sixties just over 70,000 were admitted. One can only imagine the problems created by such variations and its implications in labour market planning, increased strain on housing, schooling and other community services in less accommodating areas.

The new Act contains provisions which relate immigration to Canada's labour market needs and long-term planning for the size, rate of growth and geographic distribution of the population. It permits flexibility in managing the annual level of immigration to Canada.

To achieve this, the Minister is required by statute (Sec.7 of the Act), after consultation with the provinces and other organizations and institutions, to announce annually the number of immigrants Canada plans to admit over a specific period. This target, however, can be modified as required by changing circumstances such as increased unemployment or new trends in population distribution.

In 1981, the Minister decided, after task force reports were analyzed, to establish a three-year rather than an annual projection.

ADMISSION OF IMMIGRANTS INTO CANADA - ADMISSIBLE CATEGORIES

A person applying for permanent admission or landing into Canada must have in his possession a valid passport or travel document and a permanent immigrant visa duly stamped into his passport and must present this document to an Immigration Officer at a port of entry into Canada. Once this visa is granted to him, the immigrant and the members of his family are presumed to have met all the requirements of the law, i.e. they will have passed medical examinations, they will have obtained security clearances, and if applicable the head of the family or the principal applicant will have sat-

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isfied all immigration regulations. If the immigrant is destined for the Province of Québec, the principal applicant (either the husband or the wife in the case of a married couple) will have obtained all the necessary approvals from the representative of the Immigration Department of the Province of Québec prior to presentation of their visas at a Canadian port of entry.

(1) Family Class Applicants Are:

husband or wife;

unmarried children under twenty-one years of age;

parents or grandparents under sixty years of age if they are incapable of gainful employment or if they are widowed;

orphaned brothers, sisters, nephews, nieces, grandchildren under eighteen years of age and unmarried;

financé or fiancée;

any orphaned child, abandoned child or other child under thirteen years of age who has been placed with a welfare authority for adoption and whom the sponsor intends to adopt.

The Family Class application may be initiated by the sponsor in Canada or by the immigrant in his country of permanent residence.

Canadian citizens residing in Canada may sponsor their parents regardless of age. Landed immigrants may sponsor their parents who are sixty years of age or over. The point system does not apply to intending immigrants in this category. They need only be in good health and of good character.

(2) Independent Applicants Are:

people who apply on their own to come to Canada.

Assisted Relatives Applicants Are:

Brothers or sisters, grandparents, parents, sons or daughters, or unmarried nephews or nieces less than twenty-one years of age, or

- uncles or aunts, grandsons or granddaughters, married nephews or nieces, or unmarried nephews or nieces, twenty-one or more years of age.

All applications in this class must be submitted by the prospective immigrant in his country of permanent residence.

(3) Convention Refugees, being:

any person who, by reason of a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion,

(a) is outside the country of his nationality and is unable or, by reason of such fear, is unwilling to avail himself of the protection of that country, or

(b) not having a country of nationality, is outside the country of his former habitual residence and is unable or, by reason of such fear, is unwilling to return to that country.

HOW DOES THE IMMIGRATION SELECTION SYSTEM WORK?

The system has three basic parts:-

- A medical check;
- A background check;
- An assessment of the ability of the applicant to settle successfully in Canada.

The medical and background checks determine whether there are medical or legal barriers that prevent the applicant from being admitted to Canada as a permanent resident.

Assessment of ability to settle successfully is based upon the "point system".

The Point System:

Independent and assisted relative class applicants are assessed under a "Point System" and different categories need to achieve different maxima.

In October 1967 the Canadian government first introduced the point system as the basis for selecting independent immigrants to Canada. This legislation set universal standards and norms which enabled Canadian Immigration Officers to apply the same principles of selecting independent immigrants without regard as to the applicant's ethnic origin or geographic location and which eliminated discrimination on grounds of colour, ethnic origin, nationality, race, religion, or sex. At the same time it linked Canada's immigration requirements to labour force opportunities.

In October 1976 amendments to the point system, resulted in the weighting being shifted from academic background to vocational training or experience in order the more easily to attract skilled persons able to enter Canada's labour force. By bringing immigration more in line with Canadian labour market needs and by placing more emphasis on practical training, experience and capability, employment-related factors now account for almost one-half of the total possible rating points that can be awarded to the independent applicant.

Canada's parliamentary system permits the Minister of Employment and Immigration to react quickly to emergency situations which arise and by Order-in-Council to create norms for the rapid admissibility into Canada of refugees on a broad scale, or to admit on humanitarian grounds people who are not refugees within the Convention definition, or to admit classes with selection criteria tailored to meet special circumstances. The government of the day is also, by Regulation, able to vary the weighting of points in order to respond to shifts in population needs or changes dictated by economic or other factors.

Under the point system, if a person qualifies for admission an immigrant visa may issue in as little as four months and generally speaking in no more than seven or eight months. We do not have the delays produced by the U.S.A. preference system and its non-available visas for those in the non-preference category.

If the applicant does not receive one unit for occupational where demand is a factor, or is not awarded the minimum total units of assessment, he is rejected on the basis of paper screening and is not requested to attend for an interview. The case is closed. If he is granted an interview it means the case is accepted for processing and can be disposed of in four or seven months, as already indicated.

However, discretion is built into the point selection system. Regulation 11,(2) states that "a Visa Officer may (a) issue an immigrant visa to an immigrant who is not awarded the number of units of assessment required by Section 9 or 10, or (b) refuse to issue an immigrant visa to an immigrant who was awarded the number of units of assessment required by Section 9 or 10, if, in his opinion, there are good reasons why the number of units of assessment awarded to not reflect the chances of the particular immigrant and his dependents of becoming successfully established in Canada and those reasons have been submitted in writing to, and approved by a Senior Immigration Officer." This discretionary power offers much flexibility.

Regulation 11,(4) states "Where an immigrant has indicated in writing that he intends to reside in a province in respect of which an agreement on the selection of immigrants has been entered into by the Minister with the government of that province pursuant to section 109 of the Act, a visa officer may issue an immigrant visa to the immigrant if he is not awarded the number of units of assessment required by section 9 or 10 where the visa officer is satisfied that the immigrant meets the selection standards established by the laws of that province."

The selection system does not apply to refugees, retired persons, and those in the Family class.

Processing Priority:

Regulation 3 requires that immigrant visas be processed in the following order:

(a) members of the family class, Convention refugees seeking resettlement and members of classes of persons designated pursuant to paragraph 115(1)(d) of the Act;

(b) persons who are qualified for and are willing to engage in employment in a designated occupation;

(c) persons who have arranged employment in Canada and are able to meet the criteria set out in paragraphs (a) to (c) of item 5 of Schedule I in column II thereof;

(d) entrepreneurs;

(e) retired persons and self-employed persons;

(f) persons who are awarded more than eight units of assessment on the basis of the factor set out in item 4 of Schedule I;

(g) persons who are awarded at least four but not more than eight units of assessment on the basis of the factor set out in item 4 of Schedule I; and

(h) all other immigrants not referred to in any of paragraphs (a) to (g).

CULLEN-COUTURE AGREEMENT

Canada is probably the only country in the world in which the Federal Government shares its jurisdiction in the field of immigration with its ten other provinces.

The Department of Employment and Immigration has entered into individual contracts with all ten provinces of Canada. However, only the Province of Québec has set up its own Department of Immigration. During the past several years a working arrangement has been elaborated which can be summarized as follows:- If a person wishes to live in the Province of Québec as a non-immigrant (i.e. visitor) the Federal Government will have

the final say, except students and temporary workers, must obtain a Certificat d'Acceptation du Québec. On the other hand, if a person wishes to reside permanently in the Province of Québec, an application to reside there permanently must first be approved by the Québec Immigration Department.

Of greater interest, however, is the fact that Québec also uses the point system, but its weighting of units of assessment is quite different.

THE IMMIGRATION LAW AND FUTURE CONSIDERATIONS

A task force organized by the Department of Employment and Immigration established that Canada faces new labour market conditions. During the 1960's and 1970's Canadian labour market policies dealt with the increase in the size of its national labour force due in large extent to the impact of the baby boom generation and due also to the increased participation of women in the job market. The task force has established that of Canadians entering the world of work during the 1980's, some two-thirds will be adult women. In addition, approximately 200,000 native people will arrive at working age, accounting for perhaps 20% of total labour force growth in the Prairie provinces. Will these people have the necessary skills, or will they be in the right place to fill the jobs which will become available?

According to the task force, there will be less demand for workers in such basic manufacturing industries as the automobile industry and those producing durable goods. There will be slow growth in demand for clerical and other office workers and for employees in health, education, public administration and other service industries. Workers who are relatively unskilled will be seriously affected by job unavailability. The new jobs in the 1980's will occur in sectors of the economy depending heavily upon engineers, technicians and a full range of skilled workers. In the 1980's many more workers than in the past will be required to move geographically to find productive work and many more will have to undergo retraining in order to keep up with changing technology. The growth industries will be found in the three Western provinces. It is there the overall demand for labour will be the highest in Canada in the next ten years. It appears there will be a relatively weak demand for labour in parts of Eastern and Central Canada which are outside the metropolitan areas. In the latter centres there will be relatively strong demand for labour but the system of education and training will have to be reorganized and focus more on higher level technical skills. There will be new and improved targeting of Federal and Provincial training programs and a significant increase in training by employers. In sum, a revised set of labour market policies will be enunciated. This will certainly affect the standards of elegibility for admission into Canada and will have an impact upon the point system.

It is expected that selective resort to immigration will continue to be required to meet peak load and unforeseen requirements in the labour force. It is expected that there will be an annual average intake of between 20,000 to 25,000 selected workers over the next decade (including 50,000 to 60,000 independents and assisted relatives). Thus, although immigration will continue to be used in a selective way to meet labour market needs which cannot be satisfied domestically there will be no inclination to resort to large-scale immigration as a means of dealing with Canadian imbalance in the supply of and demand for labour.

Thus, on May 7, 1981, the Federal Minister of Employment and Immigration announced that universities will be required to advertise for Canadian candidates and evaluate their suitability before seeking foreign academics for post-secondary teaching postions in Canada.

On May 13, 1981, the Minister of Employment and Immigration announced that an agreement had been signed with representatives of Canada's aircraft manufacturers destined to help overcome manpower shortages in the booming

aircraft industry and a few days later he signed a major national manpower planning agreemnt in Vancouver to help twenty-four firms in the Canadian ship-building and ship-repair industry meet their needs for skilled personnel.

Special programs have been enunciated and will continue to be elaborated to deal with guest workers, temporary employees in the agricultural field and similar areas.

In June 1981 he announced an additional $4,300,000 had been approved to assist Indo-Chinese refugees already in Canada. There are 60,000 Indo-Chinese refugees in the country and 10,000 more are expected in 1981.

One factor which should not be overlooked in evaluating immigration trends is this: there is an assumed emigration from Canada of approximately 75,000 persons per year. This average has been established after a study of emigration for the past ten years or more.

Independent landings in 1978 numbered only 19,000 and in 1979, 26,000. These are the latest figures available. Family class was 42% in 1979; assisted relatives 10% refugees about 30%. The Federal government has determined it would be appropriate to admit between 130,000 to 140,000 immigrants during 1981. Assuming annual emigration from Canada as 75,000, the 1981 intake will be in the range of 55,000 to 65,000 persons.

The main thrust of the immigration program will be family reunification and acceptance of self-exiled persons.

Screening will be stricter for independent and assisted relative applicants.

Re-training will be a first priority. Canada, for example, is producing executive jets, sophisticated electronics equipment, and is engaged in building an important oil pipe-line. Skilled labour has to be imported for many of these jobs despite the fact that we have nearly one million unemployed. That is why the emphasis will be on re-training. The second priority will be the needs of the labour market.

As far as refugees are concerned there are discussions going on at the present time which may result in applications for refugee status being de-centralized and dealt with at a regional level rather than having all our applications funnel into Ottawa as is the case at the present time.

In fine the point system if not perfect is less imperfect than other systems in many ways. Certainly it works with relative speed. It is amenable to change. It has flexibility under the Canadian Parliamentary system.

Canada will continue to stress family reunification and will continue to admit refugees and self-exiled persons. Independent and similar applicants will experience increasing difficulties.

Your country, Canada and Australia continue to be the countries of choice. Your problem and ours will continue to be one of enlightened self-interest in matters of immigration.

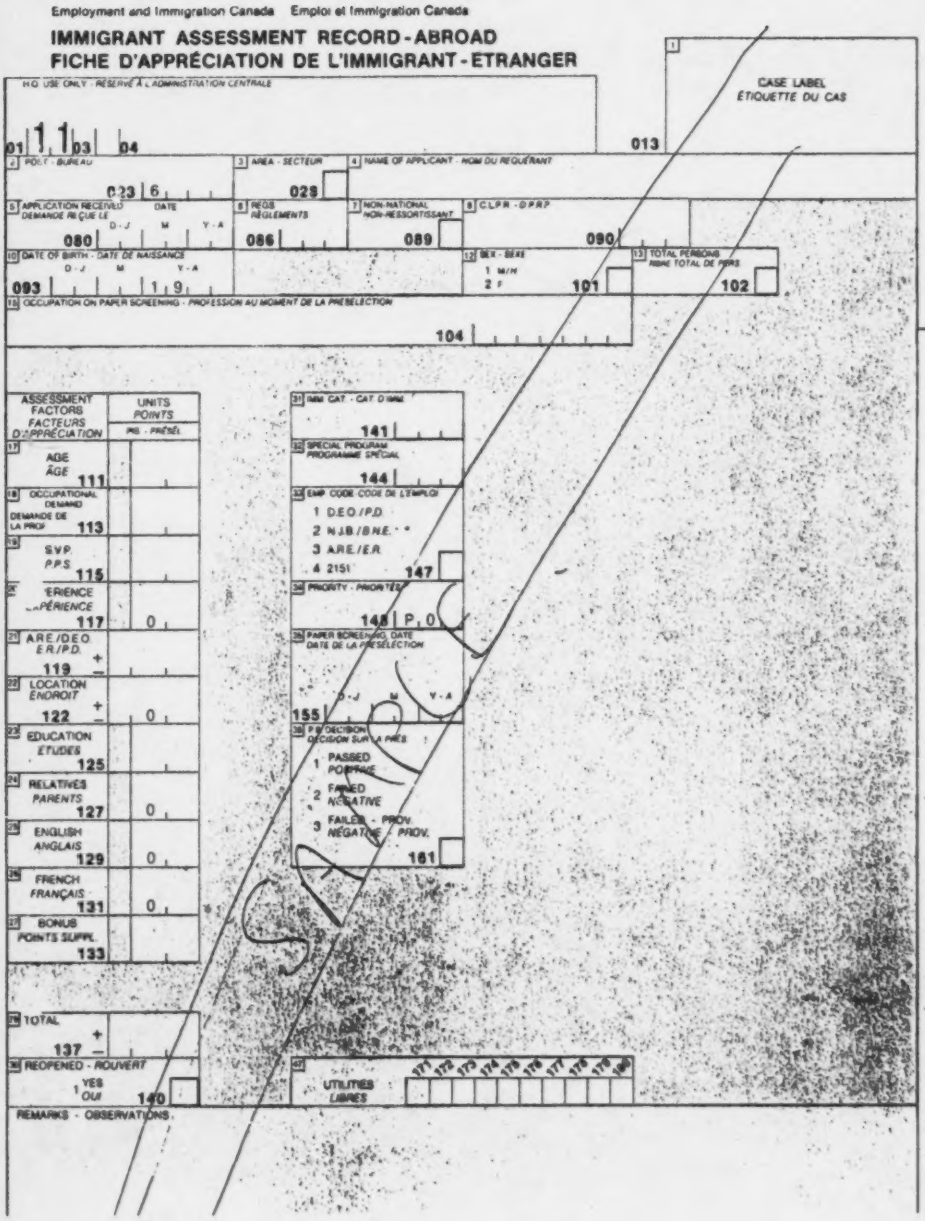
IMMIGRATION SELECTION CRITERIA*

A Summary of the Point System

Factors	Criteria	Max. Points	APPLICABLE TO: self-employed	entrepreneurs	assisted relatives	others
1. Education	One point for each year of primary and secondary education successfully completed.	12	●	●	●	●
2. Specific Vocational Preparation	To be measured by the amount of formal professional, vocational, apprenticeship, in-plant or on-the-job training necessary for average performance in the occupation under which the applicant is assessed in item 4.	15	●	●	●	●
3. Experience	Points awarded for experience in the occupation under which the applicant is assessed in item 4 or, in the case of an entrepreneur, for experience in the occupation that the entrepreneur is qualified for and is prepared to follow in Canada.	8	●	●	●	●
4. Occupational Demand	Points awarded on the basis of employment opportunities available in Canada in the occupation that the applicant is qualified for and is prepared to follow in Canada.	15	●		●	●
5. Arranged Employment or Designated Occupation	Ten points awarded if the person has arranged employment in Canada that offers reasonable prospects of continuity and meets local conditions of work and wages, *providing* that employment of that person would not interfere with the job opportunities of Canadian citizens or permanent residents, and the person will likely be able to meet all licensing and regulatory requirements; *or* the person is qualified for, and is prepared to work in, a designated occupation and meets all the conditions mentioned for arranged employment except that concerning Canadian citizens and permanent residents.	10				●

Factors	Criteria	Max. Points	APPLICABLE TO: self-employed	entre-preneurs	assisted relatives	others
6. Location	Five points awarded to a person who intends to proceed to an area designated as one having a sustained and general need for people at various levels in the employment strata and the necessary services to accommodate population growth. Five points subtracted from a person who intends to proceed to an area designated as not having such a need or such services.	5	•	•		•
7. Age	Ten points awarded to a person 18 to 35 years old. For those over 35, one point shall be subtracted from the maximum of ten for every year over 35.	10	•	•	•	•
8. Knowledge of English and French	Ten points awarded to a person who reads, writes and speaks both English and French fluently. Five points awarded to a person who reads, writes and speaks English *or* French fluently. Fewer points awarded to persons with less language knowledge and ability in [illegible] French.	10	•	•		•
9. Personal Suitability	Points awarded on the basis of an interview held to determine the suitability of the person and his/her dependants to become successfully established in Canada, based on the person's adaptability, motivation, initiative, resourcefulness and other similar qualities.	10	•	•	•	•
10. Relative	Where a person *would* be an assisted relative, *if* a relative in Canada had undertaken to assist him/her, and an immigration officer is satisfied that the relative in Canada is willing to help him/her become established but is not prepared, or is unable, to complete the necessary formal documentation to bring the person to Canada, the person shall be awarded five points.	5	•	•		•

**Members of the family class and retirees are not selected according to these criteria; Convention refugees are assessed against the factors listed in the first column but do not receive a point rating.*



Employment and Immigration Canada Emploi et Immigration Canada

IMMIGRANT ASSESSMENT RECORD - ABROAD
FICHE D'APPRÉCIATION DE L'IMMIGRANT - ETRANGER

H.O. USE ONLY - RÉSERVÉ À L'ADMINISTRATION CENTRALE

01 11 03 04

1 CASE LABEL / ÉTIQUETTE DU CAS 013

2 POST - BUREAU 023 6

3 AREA - SECTEUR 029

4 NAME OF APPLICANT - NOM DU REQUÉRANT

5 APPLICATION RECEIVED / DEMANDE REÇUE LE DATE D-J M Y-A 080

6 REGS. / RÈGLEMENTS 086

7 NON-NATIONAL / NON-RESSORTISSANT 089

8 CLPR - DPRP 090

10 DATE OF BIRTH - DATE DE NAISSANCE D-J M Y-A 093 19

12 SEX - SEXE 1 M/H 2 F 101

13 TOTAL PERSONS / NBRE TOTAL DE PERS 102

14 OCCUPATION ON PAPER SCREENING - PROFESSION AU MOMENT DE LA PRÉSÉLECTION 104

ASSESSMENT FACTORS / FACTEURS D'APPRÉCIATION	UNITS / POINTS	PS - PRÉSÉL
17 AGE / ÂGE 111		
18 OCCUPATIONAL DEMAND / DEMANDE DE LA PROF 113		
19 S.V.P. / P.P.S. 115		
20 EXPERIENCE / EXPÉRIENCE 117		0
21 ARE/DEO E.R./P.D. 119 + −		
22 LOCATION / ENDROIT 122 + −		0
23 EDUCATION / ÉTUDES 125		
24 RELATIVES / PARENTS 127		0
25 ENGLISH / ANGLAIS 129		0
26 FRENCH / FRANÇAIS 131		0
27 BONUS POINTS SUPPL. 133		
28 TOTAL 137 + −		

31 IMM CAT - CAT D'IMM 141

32 SPECIAL PROGRAM / PROGRAMME SPÉCIAL 144

33 EMP. CODE / CODE DE L'EMPLOI
1 DEO/PD
2 NJB/BNE
3 ARE/ER
4 2151 147

34 PRIORITY - PRIORITÉ 148 P 0

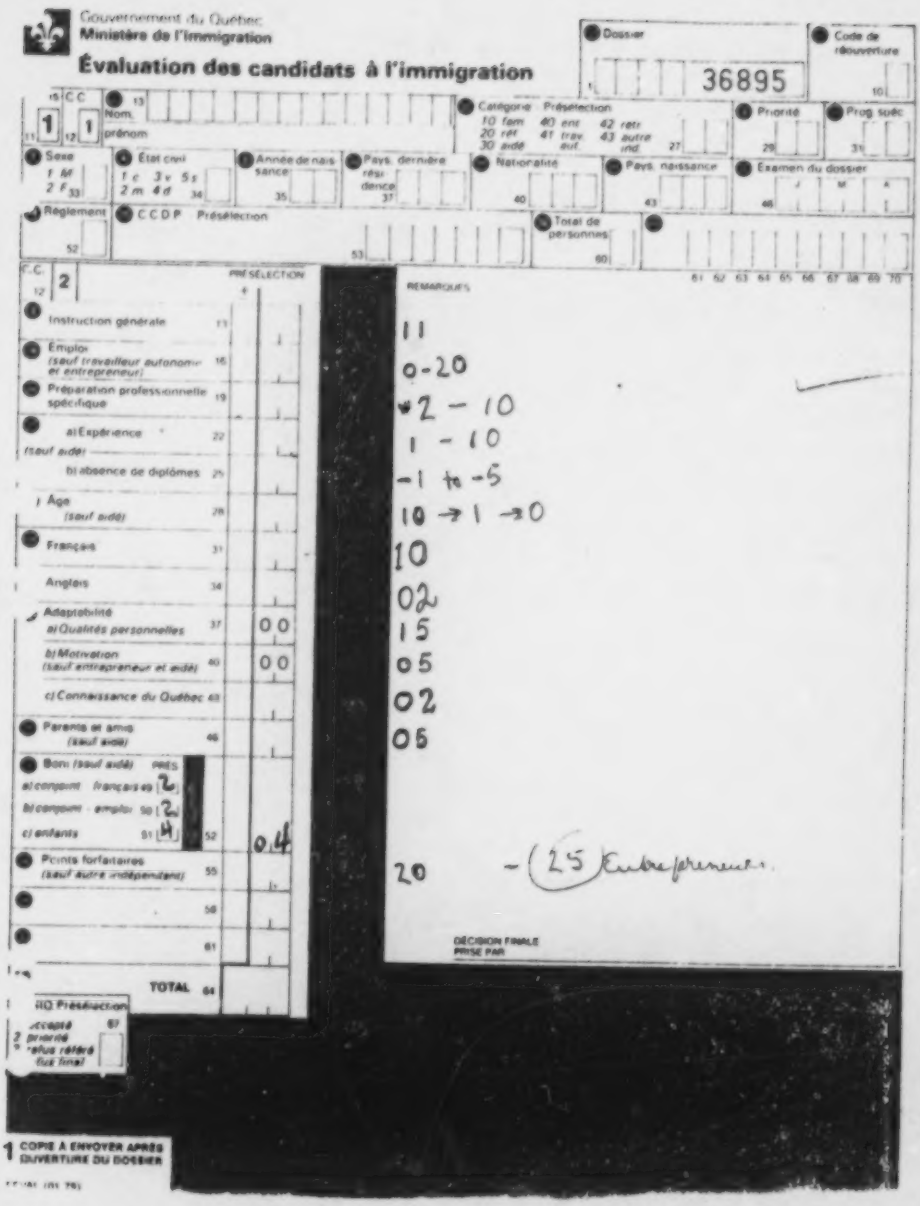
35 PAPER SCREENING DATE / DATE DE LA PRÉSÉLECTION D-J M Y-A 155

36 PS DECISION / DÉCISION SUR LA PRÉS
1 PASSED / POSITIVE
2 FAILED / NEGATIVE
3 FAILED - PROV. / NÉGATIVE - PROV. 161

29 REOPENED - ROUVERT 1 YES / OUI 140

47 UTILITIES / LIBRES 171 172 173 174 175 176 177 178 179 180

REMARKS - OBSERVATIONS



Gouvernement du Québec
Ministère de l'Immigration

Évaluation des candidats à l'immigration

Dossier: 36895

Code de réouverture

C.C.C. 1 1

Nom, prénom

Catégorie Présélection
10 fam 40 ent 42 retr
20 ref 41 trav 43 autre
30 aidé aut. ind. 27

Priorité 29

Prog. spéc. 31

Sexe 1 M 2 F 33

État civil 1 c 3 v 5 s 2 m 4 d 34

Année de naissance 35

Pays, dernière résidence 37

Nationalité 40

Pays, naissance 43

Examen du dossier J M A 46

Règlement 52

C.C.D.P. Présélection 53

Total de personnes 60

61 62 63 64 65 66 67 68 69 70

C.C. 2 12

PRÉSÉLECTION

Instruction générale	13	11
Emploi (sauf travailleur autonome et entrepreneur)	16	0-20
Préparation professionnelle spécifique	19	2 - 10
a) Expérience (sauf aidé)	22	1 - 10
b) absence de diplômes	25	-1 to -5
Âge (sauf aidé)	28	10 → 1 → 0
Français	31	10
Anglais	34	02
Adaptabilité a) Qualités personnelles	37	00 15
b) Motivation (sauf entrepreneur et aidé)	40	00 05
c) Connaissance du Québec	43	02
Parents et amis (sauf aidé)	46	05
Bon (sauf aidé) PRÉS. a) conjoint français 49 [2]		
b) conjoint emploi 50 [2]		
c) enfants 51 [4]	52	04
Points forfaitaires (sauf autre indépendant)	55	20
	58	- (25 Entrepreneur)
	61	
TOTAL	64	

REMARQUES

DÉCISION FINALE PRISE PAR

RÉSULTAT DE LA PRÉSÉLECTION
1 accepté 67
2 priorité
3 refus référé fois final

1 COPIE À ENVOYER APRÈS OUVERTURE DU DOSSIER

Senator SIMPSON. The next panel consists of Austin Fragomen, American Council on International Personnel; William Cagney, National Foreign Trade Council, and George Ludlow, North American Placement Service.

Mr. Fragomen, please.

STATEMENT OF AUSTIN T. FRAGOMEN, JR., BOARD CHAIRMAN, AMERICAN COUNCIL ON INTERNATIONAL PERSONNEL

Mr. FRAGOMEN. I am pleased to have this opportunity to appear before you today to discuss the preference system. I am the chairman of the board of the American Council on International Personnel, an organization whose membership is comprised of approximately 140 major multinational corporations which have an interest in immigration procedures.

With regard to the preference system, our organization favors a system that is fair and equitable, but also believes that the system must accommodate the needs of the business community. All too often we regard ourselves as the forgotten constituency. We do not oppose family preferences but believe that the system has become too heavily weighted in their favor. We feel that the annual allotment of labor-certified workers is too small. We recommend that additional numbers be allotted to the third and sixth preference; perhaps 15 to 20 percent would be appropriate for each preference.

In addition, we believe that the sixth preference should be divided between skilled and unskilled workers. Why should a corporate executive wait in line for over a year in the sixth preference backlog with a live-in maid? It just does not seem appropriate.

One suggestion would be not only to increase the number in the sixth preference but to divide the sixth preference between the skilled and unskilled workers, perhaps a 6A and a 6B.

The third preference is designed for persons of special merit and ability in the arts and sciences, and professionals. Unfortunately, the concept of a professional is deeply rooted in formal conceptions of education. As a result, the president of a multinational corporation often finds it more difficult to qualify in the third preference than an engineer, since for an engineer it is easy to show that the degree is a prerequisite. We believe that the third preference should be expanded to include key personnel of organizations, not just professionals.

We endorse the administration's proposal to retain the semblance of the current preference system, but question the preferential treatment of Canada and Mexico insofar as the sequestering of the 40,000 members will effectively reduce third and sixth preference numbers available for the rest of the world.

We also are in favor of streamlining labor certification procedures, but we question the administration's proposal because overscheduling can easily lead to a situation where we would be presented with the Labor Department being able to revert to their old system, which frequently was too arbitrary and capricious. And of course we have a delicate balance between a system that is so liberal that so many people can qualify that the numbers become completely overrun, and on the other hand a system that is so rigid that it is ineffective. And we believe that it is important that the

present concept of being able to apply for a labor certification based on a specific offer of employment keyed into specific job requirements is necessary to retain, but believe that the system could easily be streamlined in many ways that would make it far easier for the Labor Department to deal with.

For instance, just as one example, the Labor Department has a laborious and complicated recruitment advertising concept which they force corporations to comply with when in fact the same corporations have very intricate, involved recruitment efforts which were far more extensive and effective than the ones set forth by the Labor Department; all they have to do is ask the company to show evidence of recruitment.

Many persons in corporations wish to retire in the United States—Canadian executives, for instance—and we believe there should be a preference in the law that would deal with foreign investors and persons retiring in the United States that are of substantial means. And we feel that such a provision would further benefit the United States by attracting significant persons from abroad.

I think I will just stop with that and answer some questions, if you wish.

Senator SIMPSON. Thank you very much, Mr. Fragomen.

[The prepared statement of Austin T. Fragomen, Jr., follows:]

Prepared Statement of Austin T. Fragomen, Jr.

Mr. Chairman and Members of the Committee:

I am pleased to have this opportunity to appear before you today to discuss the preference system. My name is Austin T. Fragomen, Jr. and I am Chairman of the Board of the American Council on International Personnel, Inc. (ACIP), an organization whose membership is comprised of approximately 140 major multinational and national corporations that have a vested interest in the U.S. immigration law and its administration. ACIP provides its members with information about the laws and regulations pertaining to the admission, employment, and residence of foreign nationals in the United States and abroad. It also advocates the views of its members in matters relating to proposed administrative and legislative changes, directed at facilitating the movement of international personnel.

Before addressing the topic of the day, I would like to say that regardless of which changes are ultimately incorporated into the law, any material improvement in the system is contingent upon the adequate funding and effective management of the Immigration & Naturalization Service (INS).

With regard to the preference system, our organization, ACIP, favors a system that is equitable and fair. We urge not only that it be fair in its treatment of refugees, undocumented aliens, families seeking to be reunited with relatives in the United States, and new-seed immigrants, but also that this system accomodate the significant needs and concerns of the business community. Unfortunately, we are, all too often, the forgotten constituency.

The Preference System

The preference system, which has a ceiling of 270,000

visa numbers, presently accounts for approximately one-half of the people who immigrate legally into this country. Immediate relatives, who are not subject to numerical limitations, and refugees account for the other half; moreover, at times when refugee admissions are high, refugees alone comprise more than 50 percent of all legal entrants. Of the total ceiling, however, 54,000 visa numbers (20 percent) are allotted to the third and sixth preferences. Of these, 27,000 (10 percent) are accorded to the third preference classification which has been designated for "qualified immigrants who are members of the professions, or who because of their exceptional ability in the sciences or the arts will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States ..." Immigration and Nationality Act (INA) 203(a)(3). The remaining 27,000 are allocated to the sixth preference classification, which is available for "qualified immigrants who are capable of performing specified skilled or unskilled labor, not of a temporary or seasonal nature, for which a shortage of employable and willing persons exists in the United States." INA 203(a)(6). In order to qualify under either of these categories, the alien must have a job offer from an employer in the United States.

As was previously indicated by Under-Secretary of Labor Malcolm Lovell, Jr. in his testimony of October 26, 1981, before the House Subcommittee on Immigration, Refugees, and International Law, approximately one-half of these 54,000 visas are in fact distributed to labor market participants; the balance of those visas are utilized by qualified family members of such individuals. In effect, the total number of individuals who annually obtain permanent residence based on certified employment ranges between 25,000-30,000, a figure which represents approximately 5 percent of all legal immigrants.

The insignificance of this figure is best understood within the perspective of the overall annual growth in the labor force, which averages two million persons per year.

We feel that this annual allotment of labor-certified workers to our labor market is too small. We recommend that additional numbers be allotted to the third and sixth preferences. We propose that 15-20 percent of the total annual allocation of visa numbers be allotted to each of the third and sixth preference categories. This would increase to between 40,500-54,000 the actual number of workers who could be admitted as professionals, persons of exceptional ability in the arts and sciences, and skilled and unskilled workers. The remaining 40,500-54,000 visa numbers would be available to their family members. Thus, the country would benefit from needed professional, skilled and unskilled workers and would be enriched by their initiative, knowledge and skills.

Sixth Preference

In addition to increasing the numbers allocated to the sixth preference, we recommend certain refinements within that classification. As the preference system is presently structured, both skilled and unskilled workers are entitled to visas under the sixth preference category. As a result, employees of multi-national companies who are not technically classifiable as professionals (even managerial and executive employees who qualify for precertification under Schedule A, Group IV) must wait for visa numbers to become available, and are given no more deference than unskilled laborers such as household maids. The problem is that our law, as it presently stands, does not distinguish between these two very dissimilar groups, i.e., the skilled and the unskilled.

We propose that the sixth preference be subdivided into two distinct groups, which could be designated as 6a and 6b, each of which shall receive one-half of the proposed 15-20 percent of the available numbers. Our proposal, if enacted, would mean that group 6a (skilled workers) would receive 27,000 of the proposed 54,000, or 20,250 of the proposed 40,500 numbers. Group 6b would receive an identical number (10 percent). Even if the proposal to increase visa numbers for the third and sixth preferences does not meet with immediate success, we strongly endorse an amendment that would distinguish between the skilled and the unskilled worker under the sixth preference.

Third Preference

For the professional or the exceptional person, the third preference classification provides an ideal means to obtain residency status. However, the current third preference criteria are too restrictive. The anomoly is that an engineer at a major multinational corporation would clearly be categorized as a professional, while the president of the corporation would not be so classified since he would be unable to demonstrate that a particular educational degree was a prerequisite to his duties. The self-made man or the person who has pursued a general liberal arts curriculum would not be considered a professional although he functions in such a capacity, has the authority of, and makes the decisions of a professional. The result is that a foreign national who is in all aspects a professional business person is not recognized as qualifying for the third preference either because he has not acquired a college degree or because his degree is in liberal arts.

In the case of the executive or manager of a multinational corporation, the problem is further compounded by

the fact that INS has somewhat antiquated views and often does not recognize as professionals those who have been awarded master's degrees in the field of business administration -- even by such prestigious universities as Harvard. Hence, such professionals often do not qualify under the third preference.

There is an extremely important practical reason for enabling these key personnel to qualify under the third preference classification since visa numbers are usually more readily available than under the sixth. In other words, if a business employee qualifies only under the sixth preference classification, he usually has to wait much longer to obtain his permanent residence than if he is eligible for the third preference.

To protect this country's business, we need to ensure that the key personnel of its multinational companies, its executives and managers, are not denied third preference classification because they do not, in the opinion of INS, have a degree or because they have a degree that is not recognized as "professional" despite the fact that it qualifies its holder to enter this country's labor market as a professional. We therefore propose an amendment that will automatically include within the third preference classification key personnel who are currently meet the criteria of being executive or managerial in their employment both abroad and with an affiliated U.S. enterprise, as required under Schedule A, Group IV of the Department of Labor Regulations. We also propose that the third preference classification include key personnel who are managerial and/or executive, but who have not served an employer abroad. This proposal, if implemented, will liberate the currently oversubscribed sixth preference numbers and expedite the transfer of personnel.

97-843 O - 82 - 4

Administrative Delay in INS

The more serious delays associated with the adjudication of preference petitions, however, are caused by ineptitude within the government bodies charged with the responsibility for administering the law. For example, the processing of 3rd and 6th preference visa petitions is so sluggish that many corporations and businesses have had to "condone subterfuge" in order to staff their offices with urgently needed personnel.

In order to comply fully with the regulatory provisions governing the employment of foreign nationals, a corporation must plan anywhere between one to two years in advance for the transfer of such employees into the United States to work on a permanent basis. The initial process of obtaining certification for the proposed job from the Department of Labor has taken as long as one year because of the cumbersome procedures prescribed in the current regulations. The second phase of the process, securing approval of the preference petition based on certified employment, generates the greatest irritation among the business communtiy. Because of unexplainable and unconscionable processing delays, INS has taken up to one year to adjudicate a routine third or sixth preference petition.

For those unfamiliar with this process whereby a company must apply for a permanent resident, a brief description is appropriate.

The company which desires to hire a foreign national to work in the United States on a permanent basis must initiate an application which will enable the alien to apply for an immigrant visa. In some cases, the company must first obtain certification from the Department of Labor that (1) there are not sufficient U.S. workers who are able, willing, qualified and available to perform the job offered to the alien and (2) the employment of the alien will not adversely affect the wages

and working conditions of U.S. workers similarly employed. For the alien who is a managerial or executive level intra-company transferee (Schedule A, Group IV) or who is of international repute in the arts or sciences (Schedule A, Group II), the Labor Department has predetermined that such occupations are in short supply, and the normal labor certification process is not required.

If the application requires a labor certification, companies can expect to wait up to 12 months for approval. Two procedures in particular which are utilized by the Labor Department are time-consuming and wasteful. The first, a required 30-day search of the Labor Department's "job bank", is rarely productive because the positions listed in the "job bank" seldom match the managerial and technical positions for which foreign nationals are sought by U.S. multinational companies. Second, the Labor Department's requirement that companies advertise technical and executive positions in newspapers of general circulation is unrealistic. Most companies, in the normal course of business, would not recruit personnel to fill such highly specialized technical or executive positions in this manner and actually have far more effective recruitment programs. We submit that the cumbersome recruitment procedures mandated under the current regulations neither yield qualified domestic candidates for the proposed job, nor do they ensure the integrity of the labor certification process. In lieu of such procedures, therefore, we recommend that the Department of Labor require merely that the employin company submit firm evidence of its bona fide recruitment efforts.

Once the labor certification has been approved, the next step in the procedure (or the first step in Schedule A cases) is the filing of a third or sixth preference petition

with INS. Under most circumstances the adjudication of the preference petition currently takes 3 to 12 months. While the preference petition is being processed, the INS seems either unable or unwilling to advise as to the status of the petition or as to when adjudication might reasonably be expected.

Once the petition is approved, the beneficiary of the the visa petition must initiate his application for an immigrant visa at an American consulate abroad. The consulate requires additional time to determine the applicant's admissibility into the United States and to conduct necessary security clearances. This alone may take from 2 to 6 months to complete depending upon the consular post. When it has been determined that the applicant is eligible for admission, a visa number is requested from the State Department. When that visa number will become available for use depends entirely upon the availability of numbers at the time of the request. It should be noted that third preference numbers are currently available for nationals of all countries except three; the sixth preference category,however, is presently oversubscribed for all countries.

During the entire petition and application process, the employee and his family are unable to make firm plans for leaving their home country, and the company itself cannot set any schedule to allow for a transition. As a result, corporate plans for expansion of international operations or training of individuals for new, increased international responsibilities must be suspended. The cost of such delay to U.S. companies having international operations is substantial.

Because the eventual outcome of the application cannot be predicted with reasonable certainty and because of

the administrative delays involved in processing the application, most companies have been forced to categorically reject the concept of transferring employees to the U.S. in permanent status. The employer is forced by circumstance to transfer the employee in a temporary status such as the H-1 or the L-1 and to apply for residency thereafter. (We hasten, however, to add that the vast majority of intracompany transferees return abroad within two tofour years.)

If the foreign national is already in the United States on a nonimmigrant visa, and adjustment of status to permanent resident is sought, delays are also encountered. Such delays have the effect of impeding foreign nationals from carrying out their corporate responsibilities because they are not permitted to travel while the adjustment of status application is pending. Once an alien files application for adjustment of status with the INS, he is effectively stripped of his nonimmigrant status and relegated to unstable status. Although he is allowed to remain and work in the United States, he is unable to travel abroad without the express advance permission of the INS, and only for the most pressing business reasons or compelling personal emergencies.

The vehicle which the INS uses to grant permission to the applicant who leaves the U.S. temporarily for urgent reasons is advance parole. Advance parole implicitly acknowledges the fact that the adjustment of status application takes a considerable amount of time and attempts to provide a remedy. However, several INS district offices are reluctant to grant advance parole under any circumstances; others resist very strongly granting a second or third advance parole even when there has been an extreme delay in processing, and most will not grant advance parole to family members. Therefore, the alien's employer is prevented from utilizing his expertise

in the conduct of international business affairs. Moreover, once the application for labor certification or the preference petition has been filed, the alien may experience difficulty in extending nonimmigrant status or obtaining revalidation of the visa.

Each case must be judged in light of the regulations and the circumstances. However, to review a nonimmigrant visa under these circumstances, the consular officers must be assured that the applicant will depart from the U.S. after the purpose of the visit has been accomplished. (Airgram No. A-0444, February 12, 1979). The INS, however, does not uniformly observe such a policy, although the application for renewal of the nonimmigrant visa must be approved by the district INS before a visa can be issued.

So the conflict between nonimmigrant and immigrant classifications remains. We know that rigid interpretation is creating unusual and unnecessary hardships for foreign nationals and their U.S. employers, and we propose that the law be reformed to eliminate the conflict and obviate the need for interpretation at all. We offer two suggestions. First, the law could be amended to eliminate the "temporary" concept with regard to L-1 visas. Thus an applicant could obtain an L visa to facilitate his entry into the United States, regardless of whether he intended to remain permanently. Moreover, in the case of L visa holders, the individual's nonimmigrant status could be maintained during the pendency of his application for adjustment of status. This would allow INS district offices to grant extensions of stay beyond the initial three years, and therefore enable the individual to travel outside of the U.S. and to renew his nonimmigrant visa. The procedure for granting advance parole would become unnecessary, eliminating paperwork and what seems to be a difficult interpretative issue for many

INS district offices. Additionally, new nonimmigrant visa category, (M), might be created which would apply to those who qualify for H and L visas, but who, from the start, manifest an intent to become permanent residents. It would be analogous to the K visa which admits aliens who plan to marry U.S. citizens within 90 days of their arriva. The M-visa holder, might be required to initiate an application for adjustment of status within a prescribed period of time. The creation of such a nonimmigrant category also meets the problem of the backlog of immigrant visa numbers head on.

In addition to initiating changes that will solve the problem of intent, we recommend other modifications that will enable our overburdened immigration system to operate more efficiently. Frequently, multinational companies will transfer employees to the U.S. for four or five years, after which time the employee will be transferred to anothe country. One of the anomalies of our law, however, is that it makes no provisions for such persons to remain in the U.S. for that length of time. Many offices of INS offer a three year maximum stay and in those jurisdictions, aliens are forced to apply for permanent residence. The detrimental consequence is wasted visa numbers. We can, however, easily prevent this result by establishing a categroy designed specifically for those foreign nationals who will be here no less than four years but no more than ten years.

There is another means by which we can eliminate the misuse of visa numbers. It is frequently the case that an alien who possesses a nonimmigrant visa which bars his spouse from accepting employment obtains permanent resident status so that his spouse is authorized to work. This may be easily remedied by amending our nonimmigrant classifications to permit employment by the spouses of all nonimmigrants, as has already

been done in inter alia, A and G nonimmigrant classifications.

Other specific suggestions for the amendment of the nonimmigrant categories will be made during subsequent testimony.

The Reagan Administration Proposal: The Preference System and Labor Certification.

The Preference System

We endorse this Administration's proposals to retain the current preference system, but we challenge its favored treatment of Canada and Mexico solely on the ground that the effect of such treatment will be to reduce the number of visas available to countries in the rest of the word from 270,000 to 230,000. That proposal will decrease third and sixth preference availability by 4,000 numbers for each classificatio from 27,000 to 23,000.

Under the Administration's proposal, the 20,000 per country allotment of visa numbers for Mexico and Canada would be supplemented by an additional 20,000 per year. If either country fails to utilize its maximum of 40,000 visa numbers during any calendar year, the remainder may be used by natives of the other country in the following calendar year. Therefore, none of the visas will revert to the worldwide allotment, causing a permanent loss of the 40,000 visa numbers formerly available to natives of other countries. It can be anticipated that the proposed system of exclusive allotment of these numbers to Mexico and Canada will predominatly benefit the Mexican family preferences, which are likely to utilize most of the extra allotment of visa numbers. The result is that visas formerly available on a worldwide basis to third and sixth preference immigrants will now be utilized predominantly for the family preferences. We cannot support a policy that will

further diminish the numbers avilable. Such a policy is neither wise nor justifiable: the system, as we know, cannot afford to waste numbers; our constituency cannot afford to lose them.

Labor Certification

We praise the Administration's concept of streamlining the current labor certification process, but we foresee certain pitfalls that might occur if the methodology suggested in the Department of Labor's testimony is implemented. (This methodology would entail using lists which would indicate those occupations in which there is a short supply of workers.) We therefore advise that certain measures be taken. First, we urge that caution be exercised in working out the details of this methodology so as to ensure that the already-overburdened sixth preference is not inundated by applications for skilled and unskilled workers. Second, we recommend that the current administrative review procedures for labor certifications be retained, thereby ensuring that no employer will be denied a labor certification because an alien's position might not perfectly conform with any of the positions that might be included on the list of precertfied occupations.

On this point we end our testimony. I will be happy to answer any questions the members of the Subcommittee might have.

Senator SIMPSON. Mr. Cagney, please.

STATEMENT OF WILLIAM F. CAGNEY, DIRECTOR, INDUSTRIAL RELATIONS AND MANAGEMENT RESOURCES, NATIONAL FOREIGN TRADE COUNCIL, INC.

Mr. CAGNEY. Thank you, Mr. Chairman, members of the subcommittee.

I am William F. Cagney, director of Industrial Relations and Management Resources of the National Foreign Trade Council, Inc., a nonprofit association of over 650 U.S. companies engaged in foreign trade and investment.

We are concerned about the need for overall improvement in U.S. immigration procedures, whether for temporary or permanent residents, in order to take into account the legitimate and reasonable requirements of business.

We appreciate the humanitarian concerns on immigration matters facing the Government, but we also must seek reasonable consideration of the needs of American business which are certainly in our national interest.

On November 4 I delivered to the subcommittee counsel, Charles Wood, a copy of our National Foreign Trade Council recommendations for changes in U.S. immigration policies and procedures. I respectfully request that a copy of those recommendations be included in the record.

Senator SIMPSON. Without objection.

In our view, a two-way flow of professional and managerial personnel must be maintained between U.S. companies and their foreign branches or affiliates. American employees are routinely sent abroad, and the required visas and work permit applications normally receive prompt approval by foreign governments. By contrast, U.S. companies encounter excessive delays and undue restrictions from the agencies of the U.S. Government when applying for temporary visas or permanent resident status for foreign nationals being brought here.

This greatly handicaps the effective conduct of international business, placing our companies at a competitive disadvantage vis-a-vis foreign firms—not to mention the personal hardship imposed upon the individuals and families being transferred. In today's world, quick action is imperative to take advantage of opportunities which otherwise are lost or diminished. We also need some reasonable degree of certainty as to the timeframe for planning of such transfers.

We are essentially speaking of executive, managerial, and technical personnel with specialized knowledge who are needed at U.S. headquarters or plants, and who can bring their skills and international expertise to further enhance the development of international markets and the expansion of export operations which are so vital to the needs of the U.S. economy.

The subcommittee has specifically asked for our comments on the preference system. The two preference categories currently available for business-related immigration are the third and sixth, where the available visa numbers are 10 percent for each category

out of the overall limitation of 270,000. These numbers include the worker or employee and the spouse and children.

We would like to see an increase in the number of visas available under these categories which would raise the third preference from 27,000 to approximately 40,500, with a similar increase for the sixth preference category. We feel this is essential to allow for reasonably prompt transfer of selected foreign national employees to the United States. At this time, sixth preference applicants from most companies face a 20-month backlog in waiting for a visa, while both third and sixth preference applicants from some companies face a wait of many years. An expansion of the third and sixth visa numbers is needed to facilitate the immigration of people with the kinds of skills, training and abilities that will enable them to make important contributions to the United States.

We welcome the revision of the labor certification process which has unduly handicapped and delayed the entry of talented foreign nationals required by many American companies. We understand this will be accomplished by expanding the list of precertified job titles on schedule A, thus obviating the need to apply to the Department of Labor for individual certifications.

The Secretary of Labor is to determine the job titles to be added. We believe the secretary should be urged, or even required, to consult with the private sector with a view to determining their needs and recommended job titles. The council and our member companies are prepared to participate in such an undertaking. In any event, we would expect that the Secretary of Labor would still be required to consider petitions for individual labor certifications which for some reason may not be included in the expanded schedule A. There must be opportunity for a reasonable review process.

We are opposed to the portion of the legislation where it appears the total visa numbers for the preference categories would be reduced from 270,000 to 230,000. That would necessarily reduce the visa numbers available in several or all of the preference categories. As stated, we are urgently seeking an increase in the members and therefore could not go along with a total reduction.

We would also strongly recommend a redefinition of the third preference category to allow for inclusion of key personnel of companies. The present definition covers "members of the professions or persons of exceptional ability in the science or arts." We propose to expand this to cover such key personnel as are currently allowed under, let us say, the L-1 nonimmigrant visa category, but without the 1-year company employment requirement.

I thank you for this opportunity to express these views to the subcommittee.

Senator SIMPSON. Thank you, Mr. Cagney.

[Material submitted by Mr. Cagney follows:]

SUBMISSIONS OF WILLIAM F. CAGNEY

NATIONAL FOREIGN TRADE COUNCIL, INC.

February 11, 1980

TO: MEMBERS INTERESTED IN IMMIGRATION PROBLEMS

SUBJ: MEETING TO DISCUSS RECOMMENDATIONS - MARCH 19

There has been considerable interest in the discussion of immigration problems with the INS, Labor, and State Departments encountered by companies trying to transfer certain foreign nationals to the U.S. With your help, the Council prepared the Memorandum which was presented to the Select Commission on Immigration and Refugee Policy and also sent to other appropriate members of Congress and the Government agencies involved - see our Bulletin M-3679 of November 30, 1979.

Subsequently, as requested by the Select Commission, we conducted a survey on the use of the L-1 visa. The overall results of the survey have been referred to Lawrence H. Fuchs, Executive Director of the Select Commission. Attached is copy of that letter for your information.

In now seems quite appropriate and timely to have a select group of members interested in immigration matters meet again to discuss specific recommendations, both legislative and administrative, to be made to the Select Commission, appropriate government agencies and other influential parties.

Accordingly, we have scheduled a meeting at the Council's office for Wednesday March 19, which should run from 10 A.M. to about noon. You are cordially invited to attend that meeting. A draft of the revision recommendations will be prepared prior thereto to facilitate the discussion.

It is quite likely that discussions may continue through lunch. In that event, I would like to know whether you can plan to stay for that so I can make the necessary advance arrangements. (The charges for the luncheon will be on a pro-rata assessment to those attending.)

M-2932

William F. Cagney-Director
Ind. Reltns. & Mgmt. Res.

NATIONAL FOREIGN TRADE COUNCIL, INC.

10 ROCKEFELLER PLAZA • NEW YORK, N. Y. 10020 • (212) 581-6420

February 11, 1980

Lawrence H. Fuchs
Executive Director
Select Commission on
Immigration and Refugee Policy
New Executive Office Building
Room 2020
726 Jackson Place, N.W.
Washington DC 20506

Dear Mr. Fuchs:

In connection with the presentation which I made on behalf of the National Foreign Trade Council at the Select Commission's hearing in Boston on November 19, 1979, you invited the Council to provide you with some survey data from member companies respecting processing of L-1 visas.

The NFTC sent a questionnaire to 75 member companies. We have received 30 responses, which are summarized on the attachment. The responses came from companies throughout the United States, who therefore would be petitioning at different regional offices of the Immigration and Naturalization Service. Because of the relatively large number of companies with headquarters in the New York area, where most of their petitions are filed, we have set out separately the data relating to the INS office in the New York City area.

You will note that the 30 companies that did complete the survey showed a total of 208 foreign employees brought to the U.S. on L-1 visas in 1978, and 249 in 1979.

With regard to delays in processing, most of the companies reported about 2-3 months. Some companies reported isolated processing times of 5-7 months, which may indicate problems within a particular regional office of the INS.

One company (Chase Manhattan Bank in the New York City area) reported that in 1978 the processing time was about 2-3 months but that in 1979 the processing time ran 5-6 months. At the suggestion of Susan Davidsen, Vice President of that bank, to whom you directed your request at the Boston hearing, we enclose a copy of their response to the Survey.

With respect to the period 1975-1979 only two instances were reported of L-1 visa petitions being denied.

Our members reported that most of the individuals brought in on an L-1 visa stayed for 2-3 years, but there were nine cases reported, where the individuals stayed about 4 or 5 years.

The results ranged quite considerably as to the number of L-1s for whom Adjustment of Permanent Resident Status was requested. In all, there were 159 individuals for whom permenent status was requested by these 30 reporting companies since the inception of the L-1 visa Petition in 1970 - or an average of 16 per year for the 30 companies responding.

In completing this survey, a number of companies went out of their way to compliment the regional INS offices with which they had to deal. However, the New York office, which receives a great volume of petitions, was properly criticized for undue delays as well as the other administrative failings (lost files, inability to communicate) that were cited in our presentation at the November 19 hearing in Boston.

We hope that the information in this letter and the attachment is helpful to the Select Commission in its efforts to improve L-1 visa procedures. We also earnestly request that the other recommendations contained in Mr. R.W. Roberts' letter to the Select Commission of November 15, 1979 and the Memorandum enclosed therewith be given serious consideration.

William F. Cagney
Director
Industrial Relations &
Management Resources

WFC:jt

Enclosure.

		Total U.S. (Incl. NYC Area)	Of which: NYC Area
1.	No. of L-1 Visa Petitions filed		
	- in 1978	208	86
	- in 1979	249	92
2.	L-1 Visa Petitions denied		
	- in 1978/79	1	1
	- in last 5 years	1	0
3.	INS- Average Time to Process		
	- 2 months or less	17	5
	- 3 months	5	4
	- 4 months	3	1
	- 5 months	2	1
	- 6 months	2	1
	- 7 months	1	1
	Total Responses	30	13
4.	How long L-1's typically stay in U.S.		
	- 2 years or less	9	3
	- 3 years	11	6
	- 4 years	7	3
	- 5 years	2	
		29	12
5.	No. of L-1's for whom Adjust to Perm. Res. Status Petitioned (since inception of the L-1 Visa petition in 1970)	159 (Avg. 16 pa)	58 (Avg. 6 pa)

NATIONAL FOREIGN TRADE COUNCIL, INC.
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December 15, 1980

MEMORANDUM OF PROPOSALS ON IMMIGRATION MATTERS
AFFECTING PROFESSIONAL, MANAGERIAL AND TECHNICAL PERSONNEL

The National Foreign Trade Council is a private, non-profit association of over 600 American companies engaged in foreign trade and investment. We have a diversified membership including manufacturers, mining and petroleum companies, banks and other service industries.

Our member companies are involved on a day-to-day basis with immigration matters because of their need to obtain immigrant or non-immigrant visas for executive, managerial or highly skilled personnel. During the past year and a half, the NFTC's Immigration Committee has developed these proposals in an effort to make the immigration system more efficient, both for the government agencies involved and for U.S. companies. These proposals cover changes in certain statutes, regulations and administrative practices governing U.S. immigration law.

LEGISLATION TO AUTHORIZE L-1 PROGRAMS SIMILAR TO EXISTING J-1 PROGRAMS

Legislation should be enacted authorizing the Attorney General, through the Immigration and Naturalization Service (the "Service"), to allow companies to establish an L-1 program similar to existing J-1 programs.* With the creation of L-1 programs, companies which regularly bring L-1 intra-company transferees to the U.S. will not be required to file individual I-129B Petitions and, accordingly, the Service will not have the burden of adjudicating numerous, individual I-129B Petitions. The current procedure for adjudicating individual L-1 Petitions would be retained for cases not covered by an approved L-1 program.

* 22 C.F.R. Pt. 514 ("Exchange-Visitor Program") provides that organizations, including private companies, may apply to the U.S. International Communication Agency ("USICA") for permission to operate a J-1 program. If this permission is granted, foreign nationals who will be trained by the company in the U.S. may obtain a J-1 visa without Immigration and Naturalization Service approval for an individual H-3 (trainee) petition. The company and the prospective trainee execute a Form IAP-66 which is submitted to a U.S. Consulate when the trainee applies for a J-1 visa.

General Discussion

Currently a company seeking L-1 visas for intra-company transferees must do so by obtaining approval of individual Form I-129B Petitions. The company must establish on Form I-129B and the accompanying Statement of Employer that the following criteria are met: (Criterion 1) the employee is employed abroad by the petitioner "firm or corporation or other legal entity or any affiliate or subsidiary thereof", (Criterion 2) the employee has beem employed abroad and will be employed in the U.S. "in a capacity that is managerial, executive, or involves specialized knowledge", and (Criterion 3) the employee has been employed abroad by the company, its affiliate or subsidiary "continuously for one year" prior to the employee's"application for admission into the United States".

U.S.C.A. P1101(a)(15)(L). With the proposed L-1 program, a company generally would establish criteria (1) and (2) before obtaining permission to operate an L-1 program. Criterion (3) would be established in individual cases by certification under oath of a responsible corporate officer.

As with the current J-1 program, a company seeking to establish an L-1 program would be required to file a comprehensive L-1 Program Application. The heart of this application would be (Criterion 1) a designation of the company's foreign operations which constitute the "firm or corporation or other legal entry or an affiliate or subsidiary thereof" and (Criterion 2) a designation of specific job positions, both in the U.S. and abroad, which are employment "in a capacity that is managerial, executive or involves specialized knowledge." 8 U.S.C.A. P1101(a)(15)(L). The company would have the burden of demonstrating that both the foreign operations and the job positions designated are within the statutory language. Upon approval, the plan would apply only to employees who work for a foreign operation designated in the approved application. Additionally, the plan would only apply to employees who have worked abroad and will work in the U.S. in specific job positions designated in the approved application.

An approved L-1 program would be administered at the company by a Responsible Officer designated on the application. When the company decided to make an intra-company transfer, the Responsible Officer would execute under oath an L-1 Program Certification Form Provided by the Service. The L-1 Program Certification Form would be similar to those portions of Form I-129B now applicable to an L-1 Petition and, in addition, would require certification of Criterion 1 that the employee is employed by a "firm or corporation or other legal entity or an affiliate of subsidiary thereof" as designated in an approved L-1 program, of Criterion 2 that the employee has been employed abroad and will work in the U.S. in job positions which are employment "in a capacity that is managerial, executive or involves specialized knowledge" as designated in an approved L-1 program, and of Criterion 3 that the employee has held his job position abroad "continuously for one year" prior to "his application for admission into the United States." The L-1 Program Certification Form would be taken by the employee to the appropriate U.S. Consulate when he applies for his L-1 visa and L-2 visas for his spouse and children. The L-1 Program Certification Form would serve as a substitute for the Form I-171C Notice of Approval.

Protection Against Abuse of L-1 Programs

There could be significant protection against abuse of an L-1 Program. This protection could be at least as significant as that now existing in the L-1 visa process.

1. With an L-1 Program the determination that a foreign operation from which an employee will be transferred is the "firm, corporation or other legal entity or an affiliate or subsidiary thereof" and that the employee's job position, both in the U.S. and abroad, is "managerial, executive or involves specialized knowledge" will be made by the Service. The Service now makes these determinations in adjudicating individual Form I-129B L-1 Petitions.

2. The employee's continuous employment will be established by the company's certification on the L-1 Program Form. Currently this fact is established by the company's certification on individual Form I-129B Petitions.

3. 22 C.F.R. P41.67(b) states that "(i)f a consular officer knows or has reason to believe that an alien applying for a visa under Section 101(a)(15)(L) 8 U.S.C.A. P1101(a)(15)(L) 1 of the Act has not been continuously employed for 1 year by the same employer or an affiliate or subsidiary thereof, or has not been employed in a managerial or executive capacity, or does not possess specialized knowledge... he shall suspend action on the alien's application and submit a report to the approving office of the Immigration and Naturalization Service for whatever action appears to be warranted." This provision could apply to aliens seeking an L-1 visa with an L-1 Program Certification Form as it now does to those who seek an L-1 visa to those with a Form I-171C Notice of Approval.

4. Copies of the executed L-1 Program Certification Form could be sent to the Service and would be subject to review. Visas and periods of authorized stay obtained with L-1 Program Certification Forms which contained incorrect information (including misrepresentations as to the particulars of an approved plan) could be subject to revocation.

5. The Service's approval of an L-1 Program Application could be subject to revocation if the Application were found to contain incorrect information or if L-1 Program Certification Forms were incorrectly used.

6. Sanctions could be imposed for statements on the L-1 Program Application and the L-1 Program Form which are not true and correct to the best knowledge and belief of the person executing the Application and Form. In effect, the Responsible Officer could have personal responsibility for false statements.

7. The Responsible Officer could be required to notify the Service of events (e.g. changes in ownership of a subsidiary company included within an approved plan) which could affect the validity of the plan.

Legislation To Establish L-1 Program

Apparently legislation is necessary to authorize L-1 Programs since the Immigration and Nationalities Act states that L-1 aliens may be admitted only after approval of a petition "in any specific case or specific cases." 8 U.S.C.A. P1184(c) now provides that:

> Petition of importing employer
> The question of importing any alien as a nonimmigrant under section 1101(a)(15)(H) or (L) of this

title in any specific case or specific cases shall be determined by the Attorney General, after consultation with appropriate agencies of the Government, upon petition of the importing employer. Such petitions shall be made and approved before the visa is granted. The petition shall be in such form and contain such information as the Attorney General shall prescribe. The approval of such a petition shall not, of itself, be construed as establishing that the alien is a nonimmigrant.

NFTC recommends the following legislative change * to 8 U.S.C. P1184(c) so that it will authorize an L-1 Program:

Petition of importing employer

(c)(1) The question of importing any alien as a nonimmigrant under section 1101(a)(15)(H) or (L) of this title in any specific case or specific cases shall be determined by the Attorney General, after consultation with appropriate agencies of the Government, upon petition of the importing employer. Such petition shall be made and approved before the visa is granted. The petition shall be in such form and contain such information as the Attorney General shall prescribe. The approval of such a petition shall not, of itself, be construed as establishing that the alien is a nonimmigrant.

(2) The question of importing any alien as a non-immigrant under section 1101(a)(15) of this title may be determined without requiring the importing employer to make and obtain approval of a petition under paragraph (c)(1). . . . of this section. In such a case, the importing employer shall apply to the Attorney General for a determination that there are or will be a specific group or groups of aliens, identified by their employer and job position abroad, who are or will be entitled to nonimmigrant status under section 1101(a)(15)(L) of this title and that the importing employer has specific job positions within the United States which may be held by aliens entitled to nonimmigrant status under section 1101(a)(15)(L) of this title. Upon approval of such application, the importing employer shall be entitled to certify that an alien is within a specific group or groups, and will hold a specific job position, set forth in an application approved by the Attorney General and that the alien otherwise is within section 1101(a)(15)(L) of this title by reason of the duration of his employment abroad. The certification may be used to obtain a visa in the same manner as an approved petition is used under paragraph (C)(1) of this section. The application and the certification shall be in such form and contain such information as the Attorney General shall prescribe.

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*Throughout this letter, language to be added to the existing statute is underlined.

II

LEGISLATION TO ESTABLISH A NEW "M" VISA
CATEGORY WHICH WOULD ALLOW PERSONS CLASSIFIABLE
AS H-1 AND L-1 IMMIGRANTS TO STAY IN THE U.S.
BEYOND THE 4-5 YEARS NOW AVAILABLE IN THOSE CATEGORIES

Legislation should be enacted establishing a new nonimmigrant visa category which would allow persons classifiable as H-1 or L-1 non-immigrants to stay beyond the 4 to 5 years now available under those categories. This visa would be available when the petitioner could demonstrate that the alien would be assigned to a project or activity which will require more than 4 or 5 years for completion but, nevertheless, that the alien intends to return to his home country at the end of his assignment. A maximum of 10 years stay would be allowed under this visa.

Creation of this visa would avoid the wasteful and time-consuming process whereby H-1 and L-1 aliens are required to obtain permanent residence merely because they are involved in work which will last for more than the 4 to 5 years normally available under an H or L visa. In this connection, it should be understood and accepted that there may be occasions where a person, in the U.S. on a non-immigrant visa such as H-1 or L-1, might seek an Adjustment of Status to the new "M" visa. For example, it might not have been feasible to wait the year or so for approval of the "Permanent Resident" petition, which might otherwise have been sought in the first place.

The following addition to 8 U.S.C. P1101(a)(15) is proposed:

(M) an alien who is entitled to nonimmigrant status under paragraphs (a)(15)(H)(i) or (a)(15)(L) of this section who will be employed in the United States temporarily for a specific purpose during a period not less than four years or more than ten years, and the alien spouse and minor children of any such alien if accompanying him or following to join him.

III.

A THREE YEAR RE-ENTRY PERMIT FOR THOSE
ON PERMANENT RESIDENT STATUS

When a foreign national in the U.S. on an approved permanent resident status proceeds overseas to work for his company, a re-entry permit should be secured to preserve that status. The permit is for one year, but with the opportunity to renew while abroad during a second year. This requirement is unnecessarily cumbersome and could be streamlined by granting the re-entry permit for a longer period, up to three years. This is a typical period of an overseas assignment.

Moreover the time spent outside of the U.S. in the employment of the company should be counted toward the required time of 30 months out of the running 5 year period to qualify for U.S. citzenship.

IV.

LEGISLATION TO INCREASE AVAILABILITY OF
VISA NUMBERS FOR 3RD AND 6TH PREFERENCES

At present the numerical limitation is extremely limited for the third and sixth preferences which allow U.S. companies to obtain needed professional and skilled personnel from abroad.

We recommend that the numerical limitation for both the third and sixth preference categories be raised.

The definition applied to the 3rd preference category is ambiguous. We recommend that possession of a college or university degree and evidence of professional competence be regarded as sufficient for third preference classification.

When requested both the "Service" and State Department should routinely and promptly provide cable advice of approval of petitions to the appropriate U.S. Consulate or embassy abroad. The companies, as now, should be charged for this service.

V.

REVISED IMMIGRATION AND NATURALIZATION SERVICE REGULATIONS AND PRACTICES

Restrictions on Mobility

Many foreign nationals in the U.S. on temporary visa status are virtually prohibited from traveling overseas for urgent business or personal reasons while they are attempting to extend their temporary status or to adjust to a permanent resident basis. This is a great handicap to them and, more so, to the companies employing them. Every reasonable effort should be made to minimize these difficulties.

The requirement of the Service for persons in such status is that they seek "advance parole." Unfortunately, this seems to be regarded with a great deal of suspicion and is denied on many occasions.

We recommend that where advance parole is needed it should be granted routinely. Perhaps some alternative valid visa could be granted to allow the individual to travel. There should not be a necessity to seek specific permission each time the individual has to travel overseas.

Duration of L-1, H-1 and H-3 Visas

The current INS procedure is to issue the temporary L-1,H-1 and H-3 visas for a period of one year, subject to renewal. This creates an enormous amount of paperwork for the Service, the companies and the individuals.

We recommend that these temporary visas be granted for the anticipated length of stay in the United States. The should also routinely provide for the "multiple-entry" authorization.

If some time limit must be set for administrative purposes, we suggest three years, with opportunity to renew for an additional three years. Incidentally, with respect to L-1 visa holders, an NFTC survey indicates that they typically remain in the U.S. for three to five years.

At the minimum clarification should be given to the regional and district offices as to the maximum period of stay under H and L status. We have found that various regional and district offices apply different rules in establishing the maximum period of stay.

In the event petition renewals may still be required, permission should be granted to submit them 90 days prior to the expiration date rather than the 60-day limit now specified. The current limit is clearly unrealistic in the light of the Service's capability for processing.

When an application to extend an L or H classification has been filed the INS should issue form I-171c (valid for two months) if urgent overseas travel is necessary.

Petition to Obtain Permanent Resident Status

The current procedure to obtain permanent resident status is unduly complicated and time-consuming. It involves the Service, The State Department, and the Labor Department. Many companies have experienced delays of 12-18 months or longer to process their petitions.

We recommend that the entire procedure be reviewed to speed up the process both at the foreign location and in the U.S. (for Adjustment of Status where the individual may already have been in the U.S. on a non-immigrant visa). The review by the Service, State Department, and Labor Department should be integrated in such a way that approval of the petition could be accomplished expeditiously. As a welcome improvement, we have noted that some INS regional offices have been able to grant Adjustment of Status virtually "on the spot" where all the papers and supporting documents have been presented in the precise required order.

Where the foreign national may be in the U.S. on a temporary visa and seeking adjustment to permanent resident status this should be viewed in most cases as a natural sequence. It is quite sensible to expect that an individual and family would decide to stay in the U.S. permanently having had opportunity to adjust to our way of life and to feel more at home with a U.S. company.

Computerization of Records - File Reference Numbers

We are aware that the Service, within budgetary limitations, is trying to introduce modern computer methods to keep track of documents which have been filed. This is a most welcome improvement.

One simple suggestion, which may have been incorporated in the new process, would be to assign a file reference number to each document filed and to tell the person who has filed the document what the reference number is. This would facilitate subsequent contact with the INS for information on the status of documents.

Instruction Manuals

The Service, the Labor Department and State Department should give serious consideration to the preparation of comprehensive manuals, including samples of forms, to assist U.S. companies and petitioners in the proper presentation of the forms and to expedite the processing. This would minimize the time-consuming return of forms for additional information. At present the written instructions are only contained on the forms which requires prior knowledge of the forms and procedure required in order to file properly.

Definition of "Affiliate"

A reasonable and realistic definition of "affiliate" under 8 U.S.C.A. P1101(a)(15)(L) should be issued for the instruction of the Regional Offices. We find that different regional and district offices are applying different definitions. A clear definition and set of instructions would obviate this.

In the INS Western Region, the interpretation is made that an L-1 "subsidiary" relationship exists only when the parent company owns a majority (over 50%) of the other company's stock. This is clearly an unrealistic requirement. Moreover, voluminous evidence of ownership is routinely required in support of each petition.

H-3 Training Programs

The Service in different district offices seems to be applying completely unrealistic requirements when adjudicating H-3 petitions. Clarification of the requirements is necessary. In addition, there are delays in processing of up to one year. Expeditious action should be taken on H-3 petitions.

Some reasonable standards should be set for the amount of detail required on H-3 training programs. An identification of the approximate time elements and the specific program topics, supporting the goals and objectives of the overall training program, should suffice in most cases.

LABOR CERTIFICATION PROCESS

The entire approach and requirements for labor certification should be reviewed. At present they are onerous, and quite unrealistic, as well as time-consuming.

a) a search in the job bank is time-consuming and useless for executive, managerial and highly skilled positions.

b) the requirement for advertising in newspapers and journals is out of step with normal recruitment policies of companies.

c) regional offices should not be allowed to set their own standards.

d) Schedule A Group IV should be expanded to include those who qualify for an L-1 classification based on specialized knowledge.

e) the Labor Department should allow a company to follow its normal recruitment policy in connection with labor certifications.

f) administrative guidelines for the regional and state labor offices should be made uniformly coherent and applicable.

Under the present system the Federal, State and Local Labor Departments review each application for a labor certification, regardless of whether the type of position is in short supply in the United States or if there are a number of unemployed persons seeking such employment. This is a very meticulous, time-consuming operation with little to show in the way of positive results.

As a practical measure, we think that the careful review of the application could well be restricted to those types of positions for which the Labor Department records show a significant number of unemployed persons in the United States or, specifically, within the area where the employer is located. This change in emphasis should considerably reduce the workload and permit expeditious approval of labor certification applications where there is little danger of displacing American workers.

# # # # #

BULLETIN

NATIONAL FOREIGN TRADE COUNCIL, INC.

January 9, 1981

COUNCIL RECOMMENDATIONS FOR CHANGES IN U.S. IMMIGRATION POLICIES AND PROCEDURES

The attached "Memorandum of Proposals on Immigration Matters Affecting Professional, Managerial, and Technical Personnel" was presented on December 18, 1980 to officials of the Select Commission on Immigration and Refugee Policy, the Immigration and Naturalization Service, and the Departments of State and Labor, by William F. Cagney, NFTC Director of Industrial Relations and Management Resources.

The memorandum presents the Council's recommendations for reducing excessive delays by Federal agencies in approving the admission to the United States of foreign nationals, either currently employed by foreign subsidiaries and branches of U. S. multinational corporations, or to be employed by them after temporary assignment in the U. S. operations.

Recommendations are also made for reducing impediments to overseas travel by such foreign nationals after they have arrived in the United States, when their assignments may necessarily involve close liaison with the company's foreign operations.

The Council memorandum makes five primary recommendations:

1/ The Immigration and Naturalization Service should be empowered to give blanket approval for company programs, thus allowing expeditious individual intra-company transfers upon clearance with U. S. embassies and consulates abroad. Intra-company transfers relate to managerial or executive personnel or those with specialized knowledge.

Under current procedures, a company must seek approval from a regional U. S. office of the INS, providing full documentation on the need for <u>each</u> transfer. After INS approval the individual must seek clearance from the U. S. embassy or consulate abroad before being allowed to proceed to the United States. This process involves extensive delays.

The Council recommends that these transfers be handled on an approved program basis. Once a program is approved, an officer of the company would execute a form which would be presented directly to the appropriate U. S. consulate or embassy abroad for immediate clearance (This would eliminate the need for processing each application through INS).

2/ Visas should be authorized for foreign nationals for the entire period of their anticipated temporary stay, or at least for a minimum of three years.

The current practice is to issue temporary visas for one year only. Renewals may involve several months' delay, meanwhile preventing an applicant from traveling overseas on urgent business or personal matters.

The NFTC proposal would cut down on the INS and corporate workload without relaxing control over immigrants.

3/ The approval of petitions for Permanent Resident Status should be streamlined, integrating the work of the various agencies involved.

The current procedure involves separate review in turn by the Labor Department, the INS and the State Department, an unsatisfactory process which results in months of delay.

The Council recommends more effective coordination of the review process by the INS, State, and Labor Departments, allowing for quick decision from all three agencies.

4/ The allowable numbers of business-type visa Preferences available for those seeking Permanent Resident status should be increased.

At present, an extremely limited number of such "Immigrant Visa Numbers" are issued so that rapid entry is denied.

The Council proposes a reasonable increase in the numbers available in the business-related category of immigration "Preferences".

5/ The review by the Labor Department preceding issuance of a "Labor Certification" before an immigration petition may be presented to the INS and State Department should be eliminated.

The present review requirement instituted to protect unemployed U. S. workers is unduly cumbersome, time-consuming and at odds with the needs of business today -- and does not effectively accomplish its stated purpose.

The Council's proposal is to apply a more reasonable and realistic approach to the entire Labor Certification process, omitting it entirely for certain levels of selected foreign national managerial, executive or professional staff.

We understand that some of the foregoing proposals have been incorporated in the report of the Select Commision and have been found favorable by the government agencies involved.

The Council will continue its efforts to promote these immigration proposals and will watch developments closely over the months ahead. In particular, we will be in touch with the Immigration Committees of the new Congress.

The current Memorandum was prepared by the NFTC Immigration Committee; it supplements the Committee's preliminary recommendations, which were submitted to the Select Commission and Government agencies in 1979. Copies of the prior memorandum were distributed with NFTC Bulletin 3679 of November 30, 1979.

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For inquiries contact William F. Cagney, Director, Industrial Relations and Management Resources, of the Council's staff.

Senator SIMPSON. Mr. Ludlow, please.

STATEMENT OF GEORGE E. LUDLOW, VICE PRESIDENT, NORTH AMERICAN PLACEMENT SERVICE

Mr. LUDLOW. Thank you, Mr. Chairman, for the opportunity to appear here this morning.

My name is George Ludlow. I am vice president of a small recruiting firm which has a rather unique specialty—that of finding skills which are unavailable on the domestic labor market. My company has been described as a source of last resort for American employers.

When an American employer is unable to find a skill in this country, we go outside the United States to find that skill for him. First of all, we make a final effort to find the skill which is needed in the United States, and then if we are unable to, we go outside the country to find the person the employer needs. We find ourselves confronted with delays which are running up to 3 years.

When we started studying this and looking for a reason why, we investigated the labor certification program and prepared a paper on the labor certification program which I delivered to members of the staff. I would appreciate having it included as a part of my statement here today.

Senator SIMPSON. Without objection.

Mr. LUDLOW. In making that study I discovered that the labor certification program is acting against the interest of those it was designed to serve. I think this has occurred because it is being used as a vehicle for post hoc legalization. It is not serving the needs of American employers. Eighty percent of the labor certifications granted, according to testimony from Aaron Bodin who is chief of the labor certification division—last year 80 percent of these were from people who were already in the United States.

If you will go over the tables which are included in my paper you will see that many of these professions are indeed available in the United States. The labor certification program is simply being used as an accommodation to the illegal alien. It is being used to subvert our laws. It is not working as it is presently constituted.

I have examined the administration's proposal of publishing a list of skills which are in short supply. I believe that this would be an improvement. However, I see that there are possibilities of there being shortcomings, in that if it does not reflect, if it does not truly reflect, the skills that are in short supply and if it does not allow for exceptions, it will impose an undue burden on employers.

I think it is paradoxical that a time in our history which has seen more people come into the country as immigrants than any other time, has become a period when it is almost impossible for an American employer to get a needed employee into the country. As an example of this, my firm has contracts to recruit a substantial number of physical therapists because physical therapists are in shorter supply than any other profession in the country. There are only 40,000 people practicing this profession. The American Physical Therapy Association, which is a professional organization representing the interests of physical therapists, has stated that the country is short 50,000; so we have a situation where there are two

jobs for every physical therapist in the country. The people who are suffering from this shortage are employers who are in less attractive rural areas. It is simply impossible for them to find physical therapists to come to their town to work. And yet, even though physical therapists are included on schedule A and are precertified, it still takes my company an average of 11 months to get a physical therapist delivered to his American employer.

I think that this is acting against the interests of our country. I do not know what the solution is, perhaps a point system such as has been presented to the committee today. But I can assure you that the present system is not working and is acting against the interest of the United States.

Perhaps another reason why this is occurring is because the bureaucracies which deal with immigration in this country have become so flooded with the processing of illegal immigrants and with large numbers of refugees which have been thrust upon them that they are simply unable to cope. They are not coping. Our system is not working.

I will conclude my statement with that.

Senator SIMPSON. That is very interesting, Mr. Ludlow. Let me ask you—I will come back to the other two gentlemen—would you elaborate on your suggestion to adjust the list of unavailable skills on a regional basis? Would that mean that a qualified U.S. worker would not be counted in a regional list unless they actually resided in that region? Is that what you are saying?

Mr. LUDLOW. No, sir. As I understand the administration's proposal, it allows for regional adjustment, but they do not spell it out. And I personally do not have a great deal of faith in the Department of Labor to administer this program in view of their failure to administer the present labor certification program. They have been before this committee time after time saying that they could make the labor certification program work. It does not work. It is an abject failure.

Senator SIMPSON. How would you develop, if you had your druthers, the regional concept? How would you help in interpreting that and fashioning it?

Mr. LUDLOW. I think I would accept Mr. Cagney's offer for employer input into this, allowing employer groups some input and using the statistics that are available to the Department of Labor through the Bureau of Labor Statistics. These statistics are designed to show, to reveal, regional shortages.

Senator SIMPSON. You mentioned a practice used by lawyers and employers in order to obtain a labor certification, which is referred to as "tailoring the job description." Could you define that phrase for the subcommittee and give us your thoughts on how we might counteract that?

Mr. LUDLOW. Well, I think that having a list of skills which were declared by the Secretary of Labor to be unavailable in the United States, that in itself would eliminate the tailoring of the job description. My belief is that that is a very common practice in the United States, and it is that practice which accounts for the fact that most of the labor certifications that are granted in this country are simply an accommodation to the illegal alien. Most labor certifications are in no way a representation of the employer's true

need, because the employer who is genuinely needy in this country finds it almost impossible to get a professional employee into the country because of the dilatory processing. You simply cannot go to an overseas professional and say, "sir, would you like to accept this job as a geologist or whatever in the United States?" And the fellow says, "Fine," and then he asks you well, "When can I begin?" And you say, "Well, it might be in a year or it might be in 3 years.

Now, a dishwasher whose sole desire is to get to the United States can accept employment under those conditions. A professional employee overseas will not accept that. So what we are doing under this present program is excluding the very people that our country should be trying to attract.

Senator SIMPSON. In your recruitment of skilled foreign nationals for U.S. jobs are they more apt to come permanently as immigrants or are they more prone to come temporarily as nonimmigrants?

Mr. LUDLOW. Yes, sir. Some will come—if you are recruiting a physical therapist who has generally been out of school a year or two and is more likely single, that person is willing to come to the United States on an H visa or a temporary worker visa; but if you are going to a professional, a geologist or engineer for example, this person will more than likely have a family which he will want to bring to the United States, and he is unwilling to accept employment limited to the 1-year period. That is the statutory limitation on an H-1 visa, although that visa can be renewed.

Many employers object to that. They object because there are so many restrictions imposed on that type of visa. If they want to transfer an individual from one operation in one part of the country to another, they have to move his entire file; so employers find it more desirable to have the person here as a permanent resident.

There have been some proposals for improving this program by extending the time of the temporary worker visa from 1 to 3 years, and I believe that would meet favorably with most employers.

Senator SIMPSON. One of the things that we are up to on the subcommittee is an examination of the H-2 program. The Select Commission on Immigration and Refugee Policy recommended that the current H-2 program be streamlined. It is obviously not working now. Only 40,000 are now being used. Thus it is not meeting the needs that it was intended to meet. Most of our witnesses have testified to that.

Well, I may come back with some questions.

[The prepared statement of Mr. Ludlow follows:]

PREPARED STATEMENT OF GEORGE E. LUDLOW

THE LABOR CERTIFICATION PROGRAM —
Its Failure to Protect the American Worker
Its Damage to American Industry

PERSPECTIVE

Time after time this Committee, in other Congresses has called before it the administrators of the Department of Labor's Labor Certification program to complain about almost every aspect of the program's operation. Time after time Congress and the public have been deceived by promises from these administrators that the program could be made to work.

In testimony before this Committee in 1973, numerous critics complained of processing delays of up to two years. Today, after eight more years and multiple attempts to make the program responsive, employers face delays not of two years, but of up to three years.

In 1973, former Chairman Eilberg of this Committee read from a 1965 report on the creation of the Labor Certification Program, as follows:

> "The Department of Labor should have no difficulty in adapting to this procedure inasmuch as the Department, through its own Bureau of Employment Security and affiliated State Employment Service agencies, presently determines availability of domestic workers and the standards of working conditions."

Chairman Eilberg then stated:

> "It now appears that the committee vastly overestimated the Department's ability. Almost 8 years have passed and little has been done to eliminate the problems of this program.
>
> "In fiscal 1972, 10 to 15 percent of the visas issued by the State Department involved labor certification. Further, studies show that the occupational mix since enactment of the more restrictive 1965 provision is very similar to the occupational mix prior to the amendment. This, of course, raises the question of whether it would be feasible to return to the pre-1965 provision, which caused many fewer problems, and whether that provision could be administered in such a way as to guarantee adequate protection to American workers.
>
> "We are now asking employers to hire aliens sight unseen and then wait two years for them to arrive."

Chairman Eilberg concluded:

> "In view of these problems, two primary questions need answering. First, what exactly are the benefits of the labor certification program and are they worth the expenses and hardships they create? Second, are there any acceptable alternatives to the present labor certification program?"

Now, sixteen years after this program was inaugurated, it is an even greater failure than it was eight years ago when Mr. Eilberg made these remarks.

There has been a steady barrage of criticism from practically every interested group including GAO reports, many employer groups, displaced workers, Congress, INS, the State Department, various bar groups, the Association of Immigration and Nationality Lawyers, the U.S. Chamber of Commerce, and the National Foreign Trade Council, an association representing over 600 U.S. companies engaged in foreign trade.

This single program, which by Department of Labor admission affects only one five-hundredth of one percent (.05 of 1%) of the total U.S. labor force, has done and has the potential to do indescribable damage to both the American worker and U.S. industry. This paper purports to show why.

There can be no solution to the immigration mess unless the issue of this ineffective and misdirected program is addressed and ways are found to protect both the American worker as well as to meet the legitimate and urgent needs of U.S. business.

The success of the Labor Certification program should be measured only by the following criteria, which reflect Congress's intent in creating the program:

1. **Does it protect the American worker from displacement by immigrant labor and does it protect him from adverse effects on his wages?**

2. **Does it allow the American employer access to skills demonstrably unavailable in the United States?**

As this paper will document, the Labor Certification program unfortunately fails to fulfill any aspect of its mandate. The sometimes divergent interests of American labor and American industry are not always incompatible. The dual needs of the American worker to be protected from displacement and of American business to have access to unavailable skills can be met. This paper will propose solutions calculated to serve the separate interests of both labor and industry, and their mutual interest in the American economy.

INTRODUCTION

The organization submitting this paper, North American Placement Service (NAPS), has had extensive experience with the Labor Certification program. We are a highly specialized private recruiting firm, a "source of last resort" for U.S. employers who, after extensive search, have been unable to find the skilled professional needed to keep their business healthy. The typical employer turning to NAPS for assistance in meeting his recruiting needs has usually already tried to find the skilled employee he requires through exhaustive use of every known channel -- newspapers, professional journals, television, state employment services, billboards, open houses, word-of-mouth, conventions, private employment agencies and even specialized "headhunter"-type recruiting operations. More than likely he will have heard of NAPS through contact with executives from other corporations or through a business publication such as The Wall Street Journal or Business Week which will have written about our unique operation and services.

Generally speaking, NAPS will assess the needs of the employer, make a final attempt to locate the needed skill within the United States and, if unsuccessful, will turn to foreign recruitment through its numerous overseas contacts. If a suitably qualified alien candidate is located and the employer accepts the candidate, NAPS will then process the necessary immigration formalities. It is important that the reader realize that NAPS has no incentive whatsoever to turn to overseas recruiting to fill a particular job order since it receives no additional fees for this. Indeed, NAPS has every interest to fill the job order with a qualified U.S. resident since the cost and frustration of visa processing are avoided.

In 1965, when major revisions were last made to U.S. immigration law, the AFL-CIO, and other organizations concerned about protecting the American worker, vigorously supported a provision of the law which it was then believed would provide the American worker protection from displacement by aliens and would further protect him from lowered wages and working conditions. The provision required the Secretary of Labor to certify two simultaneous conditions before aliens could be brought to this country to fill U.S. jobs:

> 1) "there are not sufficient workers who are able, willing, qualified, and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor, and
> 2) the employment of such aliens will not adversely affect the wages

and working conditions of the workers in the United States similarly employed."

The process of determining the existence or non-existence of these two conditions became known as the Labor Certification process. The regulations implementing the Labor Certification program were promulgated in Title 20 of the Code of Federal Regulations as Part 656.

These Labor Certification criteria are currently applied to only two classes of aliens: 1) immigrants coming here permanently to accept employment, and 2) temporary workers brought in by an individual employer or an employer group to perform specific, temporary tasks, and then, hopefully, to return to their native country.

In theory, the Labor Certification process allows an employer to recruit and import a foreign worker after documenting that no American resident is available to fill that particular vacancy. In theory, the Labor Certification process gives the American worker maximum protection from job displacement while not strangling U.S. employers unable to find particular skills in the domestic labor pool.

When this Labor Certification requirement was enacted into law in 1965, it quickly spawned a new bureaucracy, complete with Washington office, a series of regional offices, and employees in each of the 50 states as well as overseas territories. Pages of regulations were cranked out by well-intentioned bureaucrats determined to protect the American worker. An appeals procedure was established, forms were designed for federal and state levels of the system, local staffs were trained, consultants were hired, and government was off and running.

It has been running for 16 years now and it is doing a first-class job of running over the very worker it was designed to protect. What began as a commendable attempt to protect the American worker has become an impossible nightmare for the honest employer, genuinely unable to find a needed skill. It has also become the Number One avenue for the illegal alien to circumvent our laws. Most disappointingly, it has not only become a sham which hurts the American worker it was designed to protect, but also it is inflicting serious damage to American industry and is creating a situation which has the potential for causing actual layoffs of thousands of already-employed U.S. workers.

Two cases from our files follow which demonstrate the waste, unworkability, and absolute absurdity of the Labor Certification program. These are not rare exceptions of bureaucratic foul-ups. They are unfortunately typical.

1) A West Coast subsidiary of a large corporation engaged in stiff competition with

the Japanese has turned to foreign recruitment in a last effort to fill a requirement for a specialized electronics engineer. Despite a file of documentation several inches thick, representing scrupulous compliance with a myriad of regulations, and despite a domestic recruiting campaign that has continued unabated in the interim, this company's petition for a visa for the university-trained foreign recruit is still "in process" after nearly three years, and the position is still vacant. Numerous requests that the case be "expedited" remain unacknowledged by the responsible federal office.

2) A specialized aviation instrument company in need of an aircraft instrument repairman has turned to foreign recruitment and located the needed professional. Documentation filed in support of the petition for labor certification has been returned repeatedly with new instructions for compliance with regulations enacted or changed since the file was initially submitted. This case is also nearing its third year, and the position is still unfilled.

This paper will illustrate how such employer difficulties have come about, and will offer recommendations for constructive change. These changes will reinstate the protection from unfair competition the American worker has the right to expect and is not currently receiving, and will provide the avenues of relief promised employers in special circumstances of need and which are now inaccessible to him.

Immigration and the American Worker

There has been an enormous influx of immigrants, both legal and illegal, into our country in the past decade, a greater influx than any other comparable period in our history. There were 800,000 legal additions to our work force alone in 1980. Add to this the number of border and visa violators, variously estimated to be between 600,000 and 1.5 million each year, and the impact this must be having on the American worker begins to take shape. Each and every one of these immigrants, legal or illegal, must find some means to support himself in this country, either in the job market, or by depending on someone else engaged in the job market, or on the general taxpayer through various public assistance programs. A number of scholars have stated that if only half the illegal immigrants were removed from the American labor market, our rate of unemployment would drop below the targeted minimum of the Humphrey-Hawkins Full Employment bill. With 8 million unemployed and claims of up to 10 million illegals in the U.S., it seems that the effect would be even greater.

One cause of this problem of immigration and its damage both to the American worker and to American industry is the Labor Certification program which is administered by the Department of Labor.

First Consideration

To simplify a very complex set of laws, there is a worldwide annual quota of 270,000 immigrants set by law. Recent years, however, have seen the number admitted outside this quota soar to more than double this statutory limitation.

Visas available under this annual "ceiling" are distributed by percentage allotment in six categories:

1. Adult dependents of U.S. citizens (20%)
2. Spouses and unmarried dependents of immigrants (26%)
3. Professional workers (10%)
4. Married children of U.S. citizens (10%)
5. Adult siblings of U.S. citizens (24%)
6. Skilled and unskilled workers in short supply (10%)

Any visas unused by one category or Preference may be added to the number allowed the following category, except for the Third and Sixth occupational Preferences which are limited to 10% of 270,000 each, or 54,000 total.

All but two of these categories represent some type of "family reunification" and constitute 80% of the total of 270,000. The remaining 20% are for the so-called "worker" categories.

An alien wishing to immigrate to the United States on a permanent basis may qualify for one of the 270,000 quota immigrant visa numbers allocated worldwide each year in one of two ways. The first way is for him to have a relative here petition on his behalf. Eighty percent of quota visa numbers are allocated to this "family reunification" category. The second way is to enter as a worker in response to an offer of employment from a U.S. employer who, in theory, must document that no U.S. worker is available to fill the position before making the offer. Twenty percent of quota visa numbers are allocable to this "worker" category.

Immigrants qualifying under the 3rd and 6th Preference visa categories require a Labor Certification as outlined above. Labor Certification is also required for certain categories of non-immigrant workers coming here temporarily to perform specific tasks. Labor Certification in the non-immigrant, temporary worker category is restricted to those workers entering in the H-2 category, comprised primarily of lesser skilled workers. Profesional (H-1) workers coming here temporarily are exempt from the Labor Certification requirement.

The fact is that, while 54,000 immigrant visas are alloted annually to this "worker" category, only 16,698 were issued in 1979 and 14,175 in 1978. In other words, while 20% of allocable quota visa numbers are annually earmarked for needed worker categories, only 6.1% were granted in 1979, and only 5.2% in 1978. Or, another way of putting it might be to say that 94% and 95%, respectively, went to the category of "family reunification," in those years.

"Family reunification" visas do not require a Labor Certification from the Department of Labor prior to being awarded to an alien -- the first blow to the image of "protection of the American worker from unfair competition" the Labor Certification process is supposed to provide. In other words, 94% of legal immigrants entering the U.S. in 1978 received no screening at all as to whether or not they would be displacing American workers, or their effect on wages and working conditions. Quite obviously, there was also no such screening of the illegal entrants or of the refugees.

Second Consideration

Refugees, political asylees, and spouses, among others, are admitted outside of and in addition to a worldwide limit of 270,000 quota immigrant visas per year, and these non-quota entries now account for a major portion of the aliens legally entering the U.S. In 1980, 800,000 aliens legally entered the United States in some form of permanent residency. Only 270,000 were within the immigrant "limits" set by Congress. The reader is reminded that these aliens must also find some means of support for themselves in this country, support that will take the form of a job in the American labor force or an account number on the public assistance rolls. These facts are underscored by the very nature of these aliens as "refugees" or "asylees" who are unlikely to have any family members already in this country who can be expected to provide assistance. Nor do these "humanitarian" visas require a labor certification prior to being awarded to an alien -- the second blow to the flawed image of "protection to the American worker" through controlled and predictable numbers of aliens admitted to this country each year. There was no screening of these 530,000 individuals by the Secretary of Labor in 1980 to determine if they would displace American workers or of their effect on the wages and working conditions in this country.

Third Consideration

It is estimated that between 500,000 and 1.5 million aliens enter illegally each

year. Add these figures to those of the various legal entrants given above, and the number of new workers coming into the American labor market is staggering. Scholarly studies have shown that overall U.S. unemployment would drop by 5 percentage points if only half of the illegal aliens working in this country were sent home. This evidence that the screening supposedly provided by the Labor Certification process can be eluded, and eluded so successfully, gives the final blow to the crumbling image of protection supposedly in full force and effect and for the benefit of the American worker.

These numerous considerations, and their effects on our economy, are summarized in Table 1.

The Sane Approach

It is not our intent by any means to deny America's cultural and economic benefits to aliens. We advocate reduced immigration, as do all experts in this field, but we do not advocate eliminating immigration completely. As Americans we recognize that immigration is a vital part of our tradition. But we must recognize that while we are more generous than any country on earth in numbers admitted, we will never ease world poverty or overpopulation through this generosity. America must recognize that no amount of altruism in the form of increased immigration quotas will make so much as a ripple in the sea of burgeoning world population, which feeder countries seem unable to control, and the swelling world poverty in its wake.

We strongly advocate a restructuring of the immigration system to address two major conditions which were not present in 1965: 1) the fact that our economy continues to weaken despite all attempts to understand the causes, making unlimited immigration for any reason no longer in our national interest, and 2) the related fact that the American worker has been shamefully deceived by a Labor Certification program's broken promise to protect him from foreign workers who would -- and do -- compete with him for jobs in his own country.

According to the law, the Secretary of Labor's examination of an alien worker's projected effect on American workers, working conditions, and wages is to be applied to aliens wishing to work in America on either a permanent (immigrant) or temporary basis. As alluded to in the Introduction, these two groups of workers are broadly classified under Immigrant (quota) visas and Temporary (H-2) visas. Workers in the immigrant category are mostly professional workers, broadly speaking, while workers in the temporary category are primarily farm workers used to harvest specific crops, to speak equally broadly.

TABLE 1
LABOR CERTIFICATION AND VARIOUS CATEGORIES OF ALIENS

Category	Visa Type	Percentage of Quota	Labor Certification Required?	Number of Visas Awarded in: FY 78	FY 79	FY80	FY81 (est.)	Means of Support
Adult dependents of US citizens	1st Pref	20%	no	1,120	5,107	*	*	Employed relative, job market or public assistance
Spouses & unmarried dependents of immigrants	2nd Pref	26%	no	44,116	100,681	*	*	Employed relative, job market, or public assistance
Professional workers	3rd Pref	10%	yes	5,287	5,075	*	*	Job market (employer petition)
Married children of US citizens	4th Pref	10%	no	5,954	15,714	*	*	Employed relative, job market, or public assistance
Adult siblings of US citizens	5th Pref	24%	no	72,311	92,227	*	*	Employed relative, job market, or public assistance
Skilled & unskilled workers in short supply	6th Pref	10%	yes	8,888	11,623	*	*	Job market (employer petition)
Temporary workers, professional	H-1	N/A	no	16,838	15,056	*	*	Job market (temporary)
Temporary workers, skilled & unskilled	H-2	N/A	yes	22,832	15,487	*	*	Job market (temporary)

TABLE 1
LABOR CERTIFICATION AND VARIOUS CATEGORIES OF ALIENS

Category	Visa Type	Percentage of Quota	Labor Certification Required?	Number of Visas Awarded in: FY 78	FY 79	FY80	FY81 (est.)	Means of Support
Non-Quota immigrants		N/A	no	260,338	180,870	*	*	Employed relative, job market, public assistance
Illegal Immigrants	none	N/A	no	600,000-1.5 million each year (estimated)				Job market or public assistance
Foreign Students	F-1	N/A	no	187,030	106,977	*	*	Own funds, job market, or public assistance
Exchange Visitors	J-1	N/A	no	53,319	30,644	*	*	Own funds; job market or public assistance if visa overstayed
Spouse & children of Exchange Visitors	J-2	N/A	no	*	11,680	*	*	Exchange visitor-spouse, own funds; job market or public assistance if visa overstayed
Refugees & "Asylees"		N/A	no	*	*	*	*	Job market or public assistance

* information not available
Sources: Department of Labor Table IM-240 and INS Statistical Tables for years cited

The Labor Certification program as it applies to the H-2 temporary worker remains highly controversial and divided along sharp labor/management lines. There are strong arguments on both sides, and the issue has been debated and litigated continually since its adoption. Discussion of the H-2 visa program itself is beyond the scope of this paper. An excellent in-depth study of the temporary worker has been done by David S. North of the TransCentury Foundation under contract with the Department of Labor, titled "Nonimmigrant Workers in the U.S.: Current Trends and Future Implications."

The part of the Labor Certification program regulating the entry of immigrants is another matter. It has no defenders on either side, save possibly for a rapidly multiplying number of immigration lawyers and a large but limited number of bureaucrats directly involved in its administration. Broken promises as to the protection of American labor, and abuses of the program's employer relief provisions, can be summed up in two phrases, post hoc legalization and concurrent processing, illustrated below.

The Labor Certification Process in Operation: Fancy versus Fact

1. Post Hoc Legalization of an Illegal Alien Worker

Labor Certification has become the Number One route by which an illegal alien is allowed to evade our laws and to make a laughingstock of other aliens desiring to immigrate but who respect our laws by awaiting their turn while still in their own country. The illegal alien does this, first of all, by finding a U.S. employer to hire him. There is no screening by the Department of Labor to see whether or not he has displaced a U.S. worker or whether he is having an adverse effect on wages and working conditions. He simply goes to work at whatever wage he is able to negotiate with the employer. He is, of course, at a disadvantage in his negotiations if the employer realizes that he is in the country illegally, but in many cases the employer may not be aware that he is hiring an illegal alien. One thing the employer soon realizes, however, is that he has a very undemanding and docile worker.

What the employer and most of the American people fail to realize is that the illegal alien in America is plugged into a network which guides him not only to employers apt to hire illegals, and to the machinery for obtaining Social Security cards and other

documentation, but also to the right lawyer to subsequently straighten things out with his employer. This system has been responsible for the phenomenal growth of lawyers entering immigration practice in the past few years, said to be growing at the rate of 100% per year.

Thus, after having ingratiated himself with the employer through his docile acceptance of whatever the employer asks of him, the illegal worker will tell the employer that he fears deportation, or that he would like to legalize his status so that he might have his wife and family join him. Or, he will have struck a labor certification bargain with the employer at the outset of his employment.

The employer, wishing to accommodate his willing worker, will usually sign all the necessary forms the lawyer has prepared and the Labor Certification Section of the Department of Labor will receive one more petition to certify that a U.S. worker will not be displaced. It does not seem to matter that a U.S. worker has already been displaced. The bureaucratic mind is apparently unable to make this distinction. **If it were, the Department of Labor would long ago have ceased processing petitions from employers who already had the alien on their payroll.**

The processing begins, and an elaborate and costly processing it is, both in administrative costs to the federal government and attorneys fees to the petitioner. The attorneys fees may be paid by the employer or the employee. In the latter case the immigration lawyer will usually have an "easy payment plan," and there have been many complaints of attorneys using threats of deportation and denunciation to assure their fees. While by no means an indictment of the many honest attorneys practicing immigration law, it should be recognized that the whole procedure is one which easily invites abuse of the illegal alien.

The Labor Certification process has many regulated steps, not the least of which is the placing of a classified advertisement in a newspaper of general circulation. The job opening is also required to be put into the computer bank of the local employment office. The first thing many lawyers and "practiced" employers will do is to frame the job description carefully to meet the particular qualifications of the alien. This is called "tailoring the job description." The Department of Labor is slow moving but not stupid. It realizes that this is done and regularly tries to prevent it. The immigration lawyer, however, always seems to be one step ahead.

And so the newspaper ad is created and the job is listed with the State employment

office. Department of Labor regulations state that the newspaper ad must be in a paper of general circulation -- that is all. Before the demise of the Washington Star in the District of Columbia, most of these required ads were run there because, whatever its qualities as a newspaper, it was definitely not the paper the unemployed Washington jobseeker turned to.

American workers who mistakenly respond to the job description are referred to the employer for an interview. One would think that this might force the employer to hire a U.S. worker and fire the illegal alien. Wishful thinking. The lawyer has to earn his fee and he earns it by obtaining a Labor Certification for his client, **not by getting a job for an American worker.** A quick examination of Table 2 will reveal that more than 91% of the petitions filed in 1980 were approved. Not a bad average.

Tailoring the job description is just one of the little tricks commonly used to obtain the certification. Others include prepping the employer on the conduct of the job interview just in case the tailored job description, selective advertising and other ploys fail in their design to exclude any U.S. workers to be referred for an interview. The alien gets his certification, the U.S. employer gets his willing worker, the lawyer gets his fee, **and the American worker gets the brush-off.**

Table 3 reveals the perfect mastery over his craft the immigration lawyer or "practiced" employer often has, by listing a few of the "needed occupations" which the Labor Department, duped by skillful ploys, saw fit to certify in recent years. The Secretary of Labor would be amazed to realize the "skill shortages" certified in his name by his delegates.

Small wonder that the Labor Certification program is amusedly referred to in legal circles as the Lawyers Relief Act of 1965.

2. Legalization of a "Foreign Student" Worker

Another common misuse of this Labor Certification program is by the foreign student who is allowed, by law, to work in a field related to his studies for up to one year after his graduation. Here the same pattern is repeated, with a petition for Labor Certification being filed after the "student" is on the job. The only difference is that the "student" is usually able to do it without ever falling into "illegal" status. The result is identical, however, -- another displaced U.S. worker.

This post hoc legalization is damaging enough to the U.S. worker, but there is an

TABLE 2

NUMBER OF PETITIONS FOR LABOR CERTIFICATIONS PROCESSED BY DEPARTMENT OF LABOR

Immigrant (3rd & 6th Preference) Visas

Year Filed	Total Number Petitions	Total Number Approvals	Total Number Denials
FY 1978	19,037	16,661	2,376
FY 1979	23,519	21,354	2,165
FY 1980	30,458	28,021	2,438

Source: Department of Labor Table IM-240 for years cited

Temporary Worker (H-2) Visas

Year Filed	Total Number Petitions	Total Number Approvals	Total Number Denials
FY 1978	3,064 for 7,212 workers	2,692 for 6,602 workers	372 for 610 workers
FY 1979	5,094 for 21,907 workers	4,427 for 19,914 workers	667 for 1,993 workers
FY 1980	8,379 for 28,316 workers	7,398 for 24,695 workers	981 for 3,621 workers

Source: Department of Labor Table IM-312 for years cited

TABLE 3

SOME OCCUPATIONS CERTIFIED AS IN SHORT SUPPLY BY THE LABOR CERTIFICATION PROGRAM, DEPARTMENT OF LABOR

Descriptions of Occupations	FY1977	FY1978	FY1980
Bartenders	-	-	17
Tavern Waitresses	-	9	-
Waiters/Waitresses	13	10	120
Bellhops	-	-	3
Alpine Guide	-	-	1
Travel Guides	21	19	15
Chauffeurs & Taxi Drivers	-	2	8
Washing Machine & Laundry Workers & Attendants	2	-	12
Porters	2	1	1
Window Cleaner	-	1	-
Sandwich Maker	-	-	1
Counter Attendants	-	-	5
Airplane Attendants	-	15	-
Cemetery Worker	-	-	1
Sandblasters	2	-	8
Lawyers, Attorneys, & Legal Assistants	7	32	42
Professional Athletic Coaches & Players	122	154	169
Personnel, Public Relations, Store, Accounts, & Promotions Managers	1376	1274	1994
Sales Representatives, & Salespersons & Clerks	87	128	190
Social Workers & Case Workers	31	19	33
Inventory, Stock, & Shipping Clerks	14	44	37
Meat Cutters & Poultry Dressers	16	44	43
Concrete Laborers	-	-	2
Drill Press Operators	1	-	8
Garage Supervisors	-	11	-
TV/Radio Repairmen	64	5	46
Door Lock Installer	3	-	-
New Car Get-Ready	5	-	2
Automobile Assemblers	1	3	157
Highway Maintenance Worker	-	-	1
Welders & Solderers	39	55	112
Insurance Sales Agents	56	24	-
Travel Agents & Travel Clerks	40	25	166
Kitchen Helper	-	-	52
Concrete, Mail, Bus, Ambulance, & General Truck Drivers	-	1	78
Garbage Collectors	-	-	6
Houseworkers, Home Attendants, & Dayworkers	2987	2042	4576
and so on TOTALS	27,146	16,658	28,021

Source: Dept. of Labor Table IM-240 for years cited

even greater toll that is little realized -- that of U.S. industry, without which there would be no jobs, finding itself in a position where it is impossible for it to gain entry for a highly skilled employee whose skills are genuinely unavilable in the U.S. labor market. This truly needed skill is usually held by highly trained university graduates, but has, in the past, included tool and die makers and other jobs not requiring a university degree. One thing is certain: regardless of the economic system an industrialized nation is operating under, it cannot function efficiently and competitively and provide jobs for its resident workers if it is denied skills essential to its operation. It is obvious that an entire factory can be forced to close if, for example, there is no tool and die maker to fabricate the parts for the very product the factory is producing, or if no design engineers are available to produce new, competitive designs.

The thoughtful reader will ask himself why this should be a problem since all the employer has to do is to find a foreign-trained worker to do the job and petition the Department of Labor for a Labor Certification.

3. Concurrent Processing of Illegal and Legal Foreign Workers

Here is where we begin to see how the Labor Certification program actually works against the needs of this country. Because the Department of Labor is flooded with petitions from employers seeking certification for illegal or "student" aliens already on their payroll, there are waiting periods of up to three years for U.S. employers trying to get a desperately needed employee, whose skills are demonstrably unavilable in the United States, into the country. It is doubtful that there are any large corporations which will hire an illegal alien, at least not in our experience and we deal with such large corporations on a daily basis. As a matter of fact, our company has yet to encounter a single company employing or willing to employ an illegal worker and we deal with both large and relatively small employers. As a result, the U.S. employer seeking a skill necessary to keep both his business operating and competitive in foreign and domestic markets, and his U.S. employees working a full week, is effectively blocked from going overseas to recruit and gain entry for the skilled employee he truly cannot find in the U.S. labor pool.

How can such a needy employer project his needs one, two, or even three years ahead? Secondly, how can he recruit a highly skilled foreign employee willing to accept employment when neither the employer nor anyone else knows when, if ever, the bureaucracy will get around to issuing his visa?

The unskilled alien wishing to immigrant from an impoverished country may be willing to accept employment under these conditions because his sole interest is in getting to America. The highly educated or highly skilled foreign professional will not and could not tell a U.S. employer he would be ready to come here at some indefinite time in the future.

The administrative decision by the Department of Labor to process petitions from all employers concurrently regardless of whether or not the alien is already working in the U.S. either as a visa violator, a border violator, or a "student" getting "job-related training," or is overseas as he should be until he is legally entitled to enter, is directly responsible for this deplorable state of affairs. However, a reversal of past practice and a new enlightened administrative decision to give priority processing to employers complying with the law, i.e., petitioning for an employee outside the U.S., would only solve the problem of more expeditious entry for a desperately needed employee whose skills are demonstrably unavailable here. It would do nothing to solve the post hoc legalization scheme which benefits only a small portion of our legal establishment and whose sole interest is to earn its fee by outflanking a confused and befuddled bureaucracy.

The present program rewards the employer who hires an illegal alien by allowing him to benefit from the alien's services for the months or years it takes the petition to snake its way through the Labor Certification process. It penalizes the law-abiding employer who only turns to overseas recruiting when there is truly no U.S. resident available, by confronting him with a process so dilatory, capricious, mismanaged, and confused that it has become all but impossible for such U.S. employers to gain entry for desperately needed skills which are demonstrably unavailable in the domestic labor pool. And it stabs the American worker in the back while assuring him to his face that his job and economic interests are being protected by the Department of Labor through its administration of the Labor Certification program.

It is paradoxical that this situation exists at a time hen more immigrants are coming to our shores than at any other time in our history.

Labor Certification not the only Problem

It should be pointed out that while the Labor Certification program has been the major obstacle to overseas recruitment of needed skills by U.S. employers, it is not the

sole impediment. Other obstacles are INS and State Department processing delays which have been amply testified to before this Committee.

As an example of the problems employers face, even in cases exempted from Labor Certification, we can examine the profession of physical therapy. This profession is particularly appropriate to discuss here because it is, proportionately, in shorter supply than any other in the United States. It serves as an excellent example of how current immigration policy and bureaucratic practice work against our national interest.

Minimum requirements for the practice of physical therapy in most states are a four-year university program and the passing of a national examination upon completion of university studies, which lead to licensure. Physical therapists find the most frequent utilization of their skills in the treatment of stroke and heart attack victims. Anyone who has experienced the effectiveness of their ministrations, either firsthand or through seeing a loved one restored to health, can attest to the fact that physical therapists make a major contribution to overall U.S. health care delivery and are essential to our country.

The American Physical Therapy Association, the national association representing this profession, estimates that the U.S. is currently short 50,000 practitioners. Since there are only about 40,000 practicing nationwide, this shortage is nothing less than staggering, creating a situation where there are more than two openings for every physical therapist in the United States. This shortage is acutely felt by hospitals in underserved rural areas, whose patients are effectively left without treatment since the travel to overworked metropolitan centers for treatment is precluded by either their physical condition or budgetary constraints.

Nor will this shortage abate in the forseeable future. This country is not graduating a sufficient number of physical therapists, despite starting salaries of up to $25,000 per annum, because academics to teach the subject are unavailable. This past year saw the closing of schools of physical therapy in both Michigan and Pennsylvania due to budgetary constraints and unavailability of faculty. My firm has orders for academics to teach this subject and has been able to locate qualified teachers abroad. We have been unsuccessful in persuading these academics to commit themselves to coming here to lend a hand because it is impossible for them to plan their schedules around the indeterminate processing delays they would currently face.

An examination of Table 4 will show the total number of physical therapists American employers have been able to gain entry for in the last several years.

There are literally thousands of unfillable vacancies in this profession. There are foreign nations with unemployed physical therapists (Holland, Belgium, and Egypt, to name but a few) who would welcome the opportunity to come here. There are U.S. employers anxious and willing to hire them. Yet an examination of the above tables reveals the insignificant number of these specialized professionals U.S. employers were actually able to get through our burdened and confused bureaucrary. Insufficient qualifi-

TABLE 4

TEMPORARY WORKER VISAS (H-1) ISSUED TO PHYSICAL THERAPISTS

FY 1977.....23
FY 1978.....17
FY 1979.....12
FY 1980.....not available
FY 1981.....not available

Source: Table 16B, INS Statistical Year Book

IMMIGRANT VISAS ISSUED TO PHYSICAL THERAPISTS

FY 1977.....not available
FY 1978.....26
FY 1979.....34
FY 1980.....14
FY 1981.....21 (third quarter)

Source: Department of Labor Table IM-240 for years cited

cations or training are not the problem. The remaining petitions have been delayed somewhere along the long, long line of processing by federal employees, unfamiliar with the law or possessed of misplaced intentions, in all three Departments involved with the immigration process. Or, employers confronted with the impediments have simply abandoned the process, either from sheer exhaustion from battling the bureaucracy, or upon learning that INS has lost their papers.

Two examples follow which reveal some of the problems U.S. employers face in attempting to gain entry for foreign professionals who are undeniably in critically short supply here:

1) A corporation providing physical therapy practitioners to small hospitals in rural areas in 26 states has turned to foreign recruitment as a means of supplementing the inadequate supply of U.S.-trained physical therapists. This profession is one of the few listed on "Schedule A" and thus certified as not displacing U.S. workers. This status should reduce the bureaucratic processing time by many months. Yet, six months after

having received approved visa petitions from INS for several foreign-trained physical therapists, this employer has yet to see visa numbers given to its recruits, and the American Embassies responsible will not reply to inquiries made as to the reasons for the delays.

2) A rural hospital attempting to bring in a foreign-trained physical therapist endured 11 months of processing to obtain an approved visa petition from INS for this desperately needed professional. At long last the approved third preference visa was sent to the U.S. Embassy in a country for which visa numbers are available in this category (Third Preference). The foreign physical therapist was notified by the employer's agent in the U.S. that her visa petition had been approved. However, when she appeared at the U.S. Embassy to secure her visa, she was told by Embassy personnel that it will take one year to issue her visa, despite crystal clear State Department regulations manifestly to the contrary. The U.S. employer fears she will accept a competing job offer from a Saudi Arabian hospital while he tries to untangle one more bureaucratic bungle which threatens to undo 11 months of work, putting him "back to square one" in his attempts to staff his rural physical therapy department. The U.S. Embassy has not even responded to his inquiries, now 60 days old.

The Protection of the American Worker — Solutions

The solution to this problem is simple. It is tried and proved and was the cornerstone of our immigration policy for years. It can still serve us well. It is this:

1. **Abolish the labor certification program for all immigrants entering on the basis of their skills** (currently all 3rd and 6th preference immigrants constituting 20% of the total number of visas available in one year) **in favor of instituting a Priority category for priority processing.** The immediate effect of this, in addition to a net savings of milions of tax dollars a year, would be to put an end to post hoc legalizations of those who disregard our laws, and to put an end to the sham of this whole process which does nothing to protect the American worker. The Chief of the Alien Labor Certification Division, Aaron Bodin, has admitted that most of these petitions are filed only as an "accommodation" to the alien by the employer (Business Week, 16 August 1981).

2. **Require the Secretary of Labor to publish a quarterly or semi-annual list of skills unavailable on the U.S. labor market with adjustments allowed for regional short-**

ages only after those shortages have been publicized throughout the U.S. by notification to all state employment services. This would give U.S. workers who were willing to relocate an opportunity to fill these positions. The effect of this would be to allow only those immigrants who possessed needed skills to qualify under whatever percentage of visa numbers were allocated to their category in new legislation (currently a combined total of 20%). This would represent true protection for the U.S. worker since only skills in short supply would be issued under the "worker" visa category (currently 3rd and 6th preferences). The cost of this needed improvement would be zero dollars, since these compilations are already being made by the Department of Labor and even exist, to a limited degree today, in the form of "Schedule A" (Blanket) Labor Certifications.

The only feature absent in this program would be the "effect on wages" provision of Labor Certification regulations, but this is insignificant since the entire program as it is practiced today is no more than a sham. There are already publications of the Department of Labor which provide general guidelines of prevailing wages. Since the processing of visa petitions would revert to Immigration, where they resided for most of our immigration history, this agency would only have to consult a Labor Department publication to determine if the wage offered by the employer were within acceptable range. Or, the appropriate Labor Department publication providing this information could be required as a part of the documentation furnished INS by the employer. It is interesting to note that these petitions under current practice must still be filed with INS after Labor Certification has been awarded. So, it would not add a single step -- this step already exists under current practice.

These proposals should be non-controversial for the following reasons:

1. They would offer much more protection to the U.S. worker than the current Labor Certification game. They would truly admit only those aliens in the "immigrant worker" category whose skills were demonstrably unavilable here and thus non-competitive to U.S. workers and truly needed by U.S. industry.

2. They would allow U.S. employers to again be able to go outside the U.S. to find skills which are genuinely unavailable on the U.S. labor market. This option is presently unavailable to American industry because delays of up to three years, with 18 months the norm, preclude U.S. employers from recruiting and gaining entry for genuinely needed foreign skills.

The only opposition will come from the few bureaucrats directly involved in Labor Certification, and from some in the growing community of immigration lawyers who are

reaping untold gains through their ability to find loopholes faster than the Department of Labor can close them. There can be no loopholes in a straightforward system which lists the skills unavailable here and stops at that point.

If the American worker is to be protected and the legitimate needs of the American employer are to be met, the Labor Certification program must be recognized for the dismal failure it is. We must either return to the pre-1965 program or find other solutions.

Closing Thoughts

Of the current 20% of total immigrant visas numbers available to "worker" immigrants, less than 6% are being used for that purpose. The remainder revert to "family" categories.

The problem the U.S. employer faces is not, under current conditions, one of having an inadequate number of immigrant visas alloted to the "worker" category, but rather one of not being able to gain entry for those aliens he is forced to recruit as a result of the unavailability of a skill in the domestic labor pool.

It would, however, make sense to tie the number of "worker" immigrant visas issued in any one year directly to the unemployment rate in our country, bearing in mind that it would be unfair to penalize business by reducing its (now inaccessible) share of immigrants if the reduction is not tied to an overall reduction of immigrant numbers.

The most important fact to be taken into account in considering the elimination of this ineffective and harmful Labor Certification program is this: it is the simple fact that 98 percent of the aliens legally entering this country last year came in <u>without any screening whatsoever</u> by the Secretary of Labor as to their possible displacement of U.S. workers or their effect upon U.S. wages and working conditions. Does it make sense to continue a costly Labor Certification program ($167.00 for each petition processed as an absolute minimum cost) which offers the American worker no protection, which makes it impossible for the nation to gain entry for desperately needed skills, which is the Number One avenue for circumventing our laws and which is screening but a fraction of the entrants at the very best? Or is it rather the moment to change current practices to truly protect the American worker, the American employer, and the American economy?

Any new immigration legislation must make provisions for U.S. industry to gain expeditious entry for skills demonstrably unavailable here. This is vital to our national survival. We are paying a very high price indeed for denying U.S. business the skills it needs to keep the American economy strong and productive.

Senator SIMPSON. Let me ask Mr. Fragomen, you proposed subdividing the sixth preference into two distinct groups, I guess 6A and 6B, skilled and unskilled.

Mr. FRAGOMEN. Yes.

Senator SIMPSON. How would you define the skilled and unskilled, or how would you distinguish between the skilled and unskilled under such a proposal?

Mr. FRAGOMEN. Well, it is quite difficult, as you know, to distinguish between skilled and unskilled workers at a certain point. I mean there are clearly certain occupations that are unskilled, such as live-in maids, for example, which account for a very high percentage of the total number of labor certifications granted.

But working with the Labor Department it would seem to me that one would be able to develop some definitions as to what skilled jobs are as opposed to unskilled. If you look in the Department of Labor Occupational Outlook Handbook and other materials, they have a concept of the difference between the two occupations.

Senator SIMPSON. You attribute the delays that are associated with the adjudication of preference petitions to what you referred to as cumbersome procedures prescribed by regulations and to "unexplainable and unconscionable processing delays."

What do you believe causes those processing delays, and how can you assist us in proposing a remedy for that?

Mr. FRAGOMEN. Well, I think the major problem with the Immigration Service—and I will take it a step farther and include the Department of Labor as well, but first the Immigration Service. They have very antiquated procedures and concepts of what their role is, and they view everything in an adversary context. They return petitions and applications to the public for the most miniscule deficiencies.

In various immigration offices, as I am sure you are aware, they do not even open their mail and sort out the different kinds of petitions and applications and route them to the right departments for as long as several months. They do not have a fully computerized system so they can put the cases into the system and follow up on them.

But I think that one of two things has to happen. Either their staffing and management has to be greatly increased so that they can actually deal with the vast quantity of applications they have, or as an interim measure or an alternative measure they certainly have to be less concerned about nitpicking everything they get their hands on. They have to look at things for substantial compliance, and they have to move the applications, and maybe they will even have to go to a random system like IRS uses. And the analogy I always use is this: What would happen to IRS if they completely scrutinized every minute detail of every individual's tax return and returned most of them to ask questions about what is on line 46 or what is on line 32. They would be in the same shape the Immigration Service is. That is what will happen.

The Department of Labor, of course is a slightly different situation, and I personally believe that the Department of Labor is trying to throw out the proverbial baby with the bath water basically. I think they just want to get out of the labor certification

business as best they can. But what they have done is they have taken a system which should be fairly simple to administer, merely by increasing scheduling, which can be done by regulation—they can take all of those occupations that they customarily grant certifications for, and they can put them all on a big schedule, and they could do it on a regional basis using the State employment services, statistics and facts and what not. They are capable of doing that, and when they get individual applications for a particular job, which I think are very important to a multinational company—if a company like Chase Manhattan Bank wants to hire someone as a foreign exchange trader who is expert in Swiss francs, that is what they need, and if there were one in America, they would go hire him. It costs companies a tremendous amount of money to recruit abroad.

But the point is that for a job like that, Chase Manhattan Bank advertises extensively and goes through a very laborious procedure. The Labor Department has no interest in what they do to really attract someone to this job. They can go through a whole new artificial mechanism to prove that there is no one available. But that is just an example of the kind of problems.

Senator SIMPSON. Yes. I want now to recognize my colleague from Iowa, Senator Grassley. He has been a most able contributor to the work of this subcommittee in the long hearing process that we have been through and that will be continuing into the remaining part of November and into December. I do appreciate his participation very much.

Senator Grassley.

Senator GRASSLEY. Thank you.

Mr. Fragomen, you indicate in your testimony that you favor placing business employees in the third preference category. What basis would you use to determine that a prospective immigrant qualified under this category?

Mr. FRAGOMEN. Well, the idea behind it would be that basically third preference is presently limited to persons of exceptional merit and ability and professionals. And my idea really is just to expand the concept of what a professional is.

Now we have the anomaly that the president of a major corporation cannot qualify as a professional because he cannot show that he needs a degree in a specific field to work in a specific occupation. Right now the Labor Department grants precertification to any managerial or executive level employee who has worked for a corporation abroad in such a capacity for a year or more, and I think that that same concept could be embodied in the third preference. In other words, you could use a term like "key personnel" and you could define that term as meaning managerial or executive employees of multinational companies who work abroad. In other words, you use the same definition that schedule A, group IV of the Department of Labor regulations uses.

Senator GRASSLEY. How many third preference numbers are available?

Mr. FRAGOMEN. Right now they are 10 percent of the 270,000, so that would be 27,000 third preference numbers at the present time.

Senator GRASSLEY. Have some countries used their allotment?

Mr. FRAGOMEN. Some countries because of the numerical limitation system per country, some countries utilize all of the numbers that are available to them, but generally speaking, all the third preference numbers are not expended. There are third preference numbers.

Senator GRASSLEY. How many were left over last year from the 27,000?

Mr. FRAGOMEN. I would have to check, but I believe it was about 7,000 or 8,000, but I would have to check.

Senator GRASSLEY. If that is not close, why do you not submit the answer in writing?

Mr. FRAGOMEN. I would be glad to do that.

Senator GRASSLEY. I think Mr. Ludlow just answered a question similar to what I am going to ask, so I would ask Mr. Fragomen and Mr. Cagney to give their response to the fact that like Mr. Fragomen you indicated that the vast majority of intracompany transferees return abroad within 2 to 4 years. Do you know the percentage which do so?

Mr. FRAGOMEN. I can supply the percentage. Obviously, there is no formal Government study. As you know, we have no exit control in the United States so nobody knows how many people leave. But what we did was when we testified before the Select Commission, they asked us whether we would be willing to poll our members and try and come up with a number. So we do have an informal poll, and I will be happy to supply the committee with the results thereof.

But let me just make one brief comment, if I might. One of the major problems multinational corporations have in attempting to transfer persons to the United States on a permanent basis or to recruit needed specialist personnel or professional personnel abroad is that the time delays are so extraordinary it is virtually impossible for a company to plan over a year in advance. As a consequence, companies are all forced by the structure of the law to bring persons to the United States on H-1 or L visas, notwithstanding the fact that the assignment may really be permanent in nature, and of course this is inappropriate, and I do not condone it. But the system, the system really causes it to happen.

So when you talk about how many persons go back, in my mind it is amazing that as many go back as do go back, because the point in the matter is if you ran an effective system where companies could bring people here permanently for permanent jobs in the first instance within a reasonable time frame, which would be about 6 months, that is about how far ahead a company can plan. If they could do that, then you would have a very low percentage of persons who came to the United States and attempted to change their status on L or H visas.

Mr. CAGNEY. Mr. Grassley, may I add to that?

The National Foreign Trade Council did make a survey among companies involved in immigration. I do not recall the exact figures, but most of these L-1 visa people did return back to their home countries or elsewhere. We asked specifically whether they stayed here 2, 3, 4, or 5 years, and the general answer was about 3 years.

I have to admit, though, that the incidence varied by companies. Many companies rigidly insisted that their L-1 visa applicant petitioners do go back. There is that variance there, but I would be glad to give you the results of that survey.

Senator GRASSLEY. Continuing on the question I just asked you and your fine comment to it, do you think it would take care of the problems if we lengthened the period of time and increased the number of H-1 and L-1 visas?

Mr. FRAGOMEN. Well, the heart of the problem is that the problem operates on a few different levels. The most significant problem is that if a multinational company wants to transfer a person to the United States—we use the most extreme example we can, let us say, United Technologies wants to transfer the president of their European operations to be president of United Technologies, the chief executive officer—well, obviously, that would on its face appear to be a permanent position.

Now, if they were to go through the process to bring him here as a permanent resident, that would take them anywhere from 9 months to a year, which, of course, is ridiculous. Why should it take them 9 months to a year?

But the point is that they would probably be inclined to bring him here on an L visa under those circumstances, and then after he is here and after he has been in the position for a while, then they would apply for permanent residence. I mean that would be the way the scenario would normally develop.

So the problem you have is that the system itself basically compels companies to bring people here on temporary visas even though they really intend to be here permanently.

So what is really needed is that something has to be done about this distinction, this concept that an L visa can only be used temporarily.

Now, I happened to be serving on the staff of the House subcommittee at the time the L visa was enacted. And it was clearly the intent of the committee, as you gentlemen are well aware, that this was supposed to be amelioratory in effect and it was not supposed to be applied in such a way as to create problems in terms of running international personnel programs. But this rigid interpretation of the concept of the temporariness has really created an inordinate problem.

And, of course, it is a bad reflection on the users of L visas because a percentage of them, less than 50 percent but still a significant percentage, change their status in the United States, and of course, then the Immigration Service says, "Well, look at the abuse in this program. All of these people come here, and after they are here they change their status." But they do not really have any choice.

So I think just increasing the admissions on L's or H-1's really would not solve the problem. I think what we have to do is to not be so concerned with whether they intend to come here permanently. I mean if the new chief executive officer of United Technologies comes here with an intention of becoming a permanent resident, who cares? Who does that hurt? And I think that it is a lot of concern about nothing.

Senator GRASSLEY. So you are talking about doing more than just increasing the number or the period of time?

Mr. FRAGOMEN. I think so.

Senator GRASSLEY. Because that would not take care of the problems?

Mr. FRAGOMEN. I do not believe it will, sir.

Senator GRASSLEY. Do you have any comment on that, Mr. Cagney?

Mr. CAGNEY. Only to add about the needed degree of certainty as to travel. You can plan different things, but currently there is a complete lack of certainty as to when you may bring people over. And it is a very unfair imposition upon the executive's family, his schooling and housing situation and so on. That is the only comment.

Senator GRASSLEY. Thank you, Mr. Chairman.

Senator SIMPSON. Thank you, Senator Grassley.

Let me just throw this out. The subcommittee has received statements from engineering groups that at least one American firm was advertising its ability to obtain foreign engineers at lower wages. Their selling pitch is apparently not that they can obtain foreign engineers to fill jobs for which Americans cannot be found, but rather that they can find foreign engineers at lower cost, so that the employer's profits would rise. Do any of you have a comment on that?

Mr. LUDLOW. Sir, I think I could address that. I have one question, though. Did you say that it was a recruiting organization which had stated that?

Senator SIMPSON. Yes.

Mr. LUDLOW. Or an employer?

Senator SIMPSON. It was a recruiting organization.

Mr. LUDLOW. A recruiting organization?

Senator SIMPSON. Yes.

Mr. LUDLOW. Well, I do not know how they could do that, since they have to comply. In the case of a labor certification, there is a provision in the labor certification that the prevailing wage be paid. Perhaps payment of lower wages could be done, however, under the H-1 visa program.

I know that all engineers are not the same, and there are certain types of engineers which are in short supply in the United States.

I have a client company on the west coast which is a subsidiary of a major American corporation. This employer has enormous billboards outside his plant. He has advertised nationwide in newspapers. He advertises in professional journals. He has had television advertising and has a standing job order with his State emploment service and pays an excellent salary and is still unable to recruit an adequate number of engineers to keep his company profitable and competitive with the Japanese, who happen to be one of his primary competitors.

This employer is faced with delays of up to 2 years getting engineers into the country from overseas. And it just does not make sense to me, an immigration program that does not address the needs of the country. And I believe that ours fails to.

It addresses the need of the individual to come here or perhaps the family member who might want to bring in a brother or a

cousin or whoever he feels he can get into this country. But I do not feel we are addressing the needs of the United States in our immigration policy. And I think that is the first time in our history that this has occurred.

Mr. FRAGOMEN. If I might make a very brief comment about the engineers. I asked that specific question to a number of our member organizations that are heavily involved in the engineering field, such as General Electric and Exxon and companies that have very extensive research and development facilities.

And the problem, I gather, is that the labor market in terms of availability of engineers does not correlate toward the new high-technology need for engineers. And companies like General Electric basically find that there is a tremendous shortage in the United States of, say, Ph. D.-level electrical engineers with very substantial modernistic computer experience, for instance. Whereas if we just went out and looked for civil engineers, we might find zillions of unemployed engineers.

So I think part of the problem is to what extent it is possible to take this pool of engineers that are presently unemployed or underemployed and try to match them up, give them further training, more education or whatever, and try to get them into the jobs that are really available that now companies find almost impossible to fill. And you would just be amazed at the extensive efforts that these major corporations go to to fill these highly technical engineering positions.

The head of recruitment for professional employees at General Electric told me that there are only half as many graduates on a Ph. D. level produced by American engineering schools as American industry needs per year. Only 50 percent.

Senator SIMPSON. Yes.

Mr. CAGNEY. I wonder if I might add a word on that?

Senator SIMPSON. Yes, Mr. Cagney.

Mr. CAGNEY. Quite often we find that the salary levels abroad, particularly in Western Europe and parts of Latin America, are higher than in the United States. And that has to be taken into account. And another thing is moving costs for people and families are horrendously high.

So that is a factor for the employer to consider in judging—can I or shall I bring this Belgian, or Frenchman, or Brazilian to the United States? What is it going to cost me? There is a heavy front-end load as well as the continuing salary and other commitments to the family.

Senator SIMPSON. Mr. Cagney, I believe you have stated that you generally support the administration's proposed changes in the labor certification process. Do you believe that these changes are sufficient to do the job, or are additional changes needed?

Mr. Cagney. Well, I would like to see the expansion of what we call now schedule A. I think that would be most helpful. And we volunteered to help if we could in getting a reasonably complete listing of that. That would help us tremendously.

I guess on the labor certification side, they have looked at each individual application and instead of focusing attention on the scarce, or the problem areas, and so on, if they can open it up so that a chemical engineer, or a geologist position, or whatever, auto-

matically gets on the precertified list, that will aid them tremendously and will aid American business.

We would also like to see, as I mentioned in the testimony, that there still should be room for the Department of Labor to take into account individual requests for labor certification. They cannot just wash their hands of everything and just say, "Well, we have expanded schedule A, therefore we will not be willing to listen to your plea for some job title, because it is not on that list. It is not our concern." They cannot do that. They should be able to review individual cases as well.

Senator SIMPSON. Mr. Cagney, again, what do you believe an employer should be required to show before being allowed to employ a foreign worker? Should that employer not be required to show at a minimum that it could not afford to either pay a wage necessary to attract sufficient U.S. workers or invest the additional capital necessary to eliminate the job through mechanization? Should the employer have to show that he has attempted to train Americans to do the job? I would be interested in the view of each of you with regard to that, but addressing it to Mr. Cagney. If the others have any comment, I would appreciate having it.

Mr. Cagney. I do not know quite how to respond to that, except to say that in my experience companies need to fill jobs at the managerial or executive level where the international experience and exposure is necessary. That is the critical thing. And they would not go out and seek a German, or a Frenchman, or what have you for that job if an American were available. We believe in the, let us say, two-way flow of the international mobility of people.

But the salary criterion is not all that critical. From my own point of view, I would say we would not condone lower wages to accommodate a foreign national. That is not our concern.

And part of what multinational companies do in bringing the foreign nationals into the United States is to acquaint them, let us say, with the headquarters, its manner of operations, its officer staff, so that they can bring their international expertise over here to help the domestic counterparts, and by the same token, when they have completed a period of assignment—and I am talking, I guess, primarily from a point of view of temporary assignment—they can return overseas with their job greatly enhanced as well as their capability.

I hope I have answered your question.

Senator SIMPSON. Well, I appreciate that.

Mr. Ludlow. I do not believe, Mr. Chairman, that an American employer in recruiting a professional would turn to overseas recruitment if he were able to find a U.S. resident to fill the job, because overseas recruiting is simply too expensive. He has to pay the salary. He has to pay the recruiter's fee. He generally has to pay the moving expenses. It is just not—it is not something that American employers would do. Perhaps they would do that in the sixth preference, in attracting unskilled workers, but the way the present labor certification program is working, that is exactly what we are doing.

I was looking at the statistics, and I saw that there were 100-some automobile assemblers certified last year as being unavailable in the United States. Now, I do not know what they think about

this in Detroit or what the United Auto Workers would think about it.

But it is very obvious that the present labor certification program does not work. It does not help the employer. It does not protect the American worker—and that is what it was designed for, that is why the AFL-CIO when it was first proposed supported it, because they thought it would protect their people. But it is not doing it.

It is hurting the American worker and it is hurting the American employer. It is making it impossible for the American employer to get the person here who is genuinely needed. It is continuing to certify people who come into our country illegally and flaunt our laws. And most of these people are lower skilled people.

Senator SIMPSON. Mr. Fragomen.

Mr. FRAGOMEN. Well, you know, one of the curiosities of the labor certification concept is that when we as multinational representatives and multinational business go to the Labor Department and we say, "Look, you require us to do this and you require us to do that and you want us to show this and you want us to show that," they say, "Well, look, you know, the problem really is that the program is not designed for you. You are an anomaly and you do not fit. And because we have to apply it equally to everyone, therefore you have to undergo the burden you do, although we recognize that it is unreasonable for you to have to do that."

I mean, back to my example of the president of United Technologies, now, can you imagine the absurdity of requiring a major multinational corporation to publicly on their premises post a sign that says there is a job position available for the president of the corporation and what the salary level is? I mean, that is preposterous. You say, "Why do you have to do that?" And they say, "Well, the reason that you have to do that is because everybody has to do it, and that is what the system says."

So the basic problem is the system is not designed for us. Now, the odd thing about it is that it strangely works, because if a company wants to hire someone and they go through this laborious procedure, as ridiculous as it is, it ultimately results in the case being approved if it is a good case. And on the other hand, if it is a bad case—namely, there are a lot of Americans available for the job—then generally they are qualified applicants.

So I think, in specific answer to your question, for major multinational companies, for important jobs, all the Labor Department really has to do, in my mind, is to make sure that the proper salary level is being paid, which is a nonproblem for major companies, because the point is that they are the ones that set the market for the salaries, so you do not have to worry about the salary very much.

And the other thing they could do is just merely to require the company to actually document the recruitment efforts they actually made for the job, which generally are very extensive. And if they did that, at least for big companies there would be no problem.

I think where the problem comes is on the lower end of the job skill spectrum. And where we feel caught in a crunch is that all the programs and policies are designed to deal with this lower end

where all the numbers are. I mean, obviously that is 80 percent of your certifications; it is not managers of multinational companies. But what happens on the lower end is that you have a complete dysfuction in the system and you have major policy considerations you have to make. I mean should the U.S. allow the importation of tens of thousands of live-in maids over a period of time when the average period of time that they continue to work for the employer is 6 months to 1 year and then they go on and they take jobs which clearly Americans could fill? I mean how do you deal with this?

Obviously, upon the higher end of the spectrum where we exist, this is a nonproblem. You bring over a Ph. D. engineer, he is always going to work as a Ph. D. engineer, he is not going to become a car washer if he is brought over by a major multinational company.

I think you have some very fundamental policy problems on the other end, and I think you should require employers in those kinds of jobs to show that they have attempted to automate or they cannot or they need Americans and that they cannot find Americans and those are fair wage rates and all the rest of it.

Senator SIMPSON. Well, what you are saying is something we are attuned to in this subcommittee in this long series of hearings. We have even had a few—not very many, mind you—who say, "Well, really nothing needs to be done in this country. We just enforce the laws we have, enforce labor certification and enforce this and that."

Now, there are not many that are espousing that view. This little remarkable brown book of the Immigration and Nationality Act is the most complex, confusing, extraordinary document ever cobbled together that I have seen as I have dabbled in it now for some 3 years. We are presenting and will have available a rewrite of that.

The interesting thing is that even if it worked ideally or even if the language in there could work ideally, that will never happen, because it is a system overwhelmed. And what you are referring to is what is very clearly happening with family reunification on the other side—a very great influx, much greater than what you speak of.

It is overwhelmed; the system is unworkable. That is one of the most grievous parts of it.

I wanted to ask you one further question, Mr. Ludlow, because you came back to this, and you have smacked on it now three times. This is the No. 1 avenue for the illegal, or something to that effect with labor certification. Just briefly develop that a bit more, please.

Mr. LUDLOW. I can give you an example of what happens. Someone comes to this country on a visitor's visa or he simply jumps the border, approaches an American employer—and he obtains this information through the network of illegals in this country, and he asks, "Where can I go to work"—and the illegal will go and strike a bargain with the employer and will say, "If you will sponsor my labor certification, if you will obtain my labor certification for me, I will work for you for *x* amount of dollars."

Or he will simply tell the employer that he is in the country legally, will begin working, ingratiate himself with the employer. Once the employer realizes that he has a very good employee, very

hard-working, very undemanding employee, the illegal will then tell the employer:

> Look, I am really in the country illegally. I would like to legalize my status here. I would like to be able to bring my family into the country. In order to do this, I must obtain a labor certification. Will you sponsor it for me?

And the employer says "Yes."

And most of the labor certifications that are granted each year are given in situations just like this. Very few of them are given for the positions, I believe, that the people on the panel today have been addressing. And the result of this, you see, when you have a situation like this, is that the system breaks down, it does not work, it becomes impossible for the employer who is truly needy to get the person that he needs into the country, which also happens to be the very type of immigrant that this country needs.

Senator SIMPSON. That is, I think, the key thing to be aware of. I think the fact is that 80 percent of certifications are given to those already in this country rather than the other way around, as I think people would expect to be the usual practice.

Mr. Ludlow. Well, I feel, Mr. Chairman, that the labor certification program as it is currently used is contributing to further illegal immigration, because it simply shows the illegal immigrant that there is a way of legalizing his status here.

Senator SIMPSON. I very much appreciate the testimony of all three of you. It has been very helpful to us as we continue to build a record which we hope, will lead us to reform. And I believe that reform is possible or I would not be belaboring the issues as we have in these last months. I thank you so much for your presence.

Mr. LUDLOW. Thank you, Mr. Chairman.

Mr. CAGNEY. Thank you.

Mr. FRAGOMEN. Thank you, sir.

Senator SIMPSON. We will now recess until 2 p.m., when we will pick up with Mr. William J. Keeley. Thank you very much.

There will be questions in writing that other members of the subcommittee may wish to express and I have some additional written questions I will get to you as well. Thank you very much.

[Whereupon, at 12:34 p.m., the subcommittee recessed, to reconvene at 2 p.m., this same day.]

AFTERNOON SESSION

Senator SIMPSON. As we settle into the confines of our whistling jurisdictional sitting room here—actually, it is better than it was this morning; you could have hung meat up in the upper areas of the chamber. It was very cold whistling around on the floor, I can promise you that.

Well, sir, it is good to have you with us, William J. Keeley, of the American Engineering Association. We look forward to your testimony. I apologize to you, sir, for being tardy. Please proceed.

STATEMENT OF WILLIAM J. KEELEY, AMERICAN ENGINEERING ASSOCIATION

Mr. KEELEY. Senator Simpson and members of the subcommittee, I certainly appreciate the opportunity to offer some views held by many of the American working engineers.

In our statement of position we point out that the number of foreign-born engineers coming into the United States each year under the present regulations is substantial. Pages referred to show approximately 9,300 foreign engineers coming into the country in 1978, and something around 46,500 openings estimated for the period 1978 to 1990. So foreign engineers are filling almost one out of four engineering openings in this country.

They are willing to work for lower wages, and we consider that competition to be harmful to the wages and working conditions of American engineers. We state our opposition to anything which would increase the number admitted, and most especially to the advanced blanket certification for engineers.

We believe that many of the engineers come in under the various preference categories but not necessarily as labor certification. But we believe that many of these come as a result of individuals that are certified under labor certification. When somebody writes back home and tells about the money he is making and the good conditions, he entices more people to come over from his home country.

In our statement of motivation, we point out that basically we are just looking out for ourselves. We believe that this flood of immigration is hurting our bargaining position. The system is supposed to protect us from this competition and this harm, but we do not believe it is working to do that well.

We point out that the contract engineering field, in particular, is harmed by the competition from these immigrants. Contract engineers work on a temporary basis to fill peak workload jobs. And when the market gets a little bit tight, if aliens begin to come in, it is particularly damaging to the contract engineering field.

We have five arguments which we believe support the fact that Americans and the national interest are harmed by the entry of substantial numbers of immigrant engineers.

We first state that importation does not solve a shortage, it merely results in Americans being replaced by foreign nationals. We point out a source of potential engineers in those that presently are trained in our colleges and universities that do not enter the field, approximately 12,000 this year, in addition to the approximately 18,500 engineers expected to leave the profession, largely as a result of the existing wages and working conditions. We believe that the employers of engineers could easily attract a substantial proportion of those people to enter the field or to stay.

We make an analogy to the situation existing in the nursing field, or profession. In 1970 nurses were in short supply and nursing employers went overseas to bring many of them in. For 10 years they have been bringing them in from overseas, and nurses are still in short supply. They are presently being covered by a blanket advance certification, and they still have not solved the shortage.

We point out that the quality of engineering services is reduced when Americans are replaced by foreign-born engineers. The problem of communication between people of different languages and cultural backgrounds, the less exposure to advanced equipment which is common in many of the lesser developed countries. And we point out that employers will require a bachelor of science degree as a prerequisite for a job for an American, but they will

then bring in, especially British technicians, who have less academic qualifications, specifically the higher national certificate or many other certificates, diplomas.

Making the analogy again to the nurses, the nurses themselves claim that the quality of nursing service is much reduced by problems of communication and also morale.

We point out that the job that is taken by an alien is one that is not available for an American. The engineering job that opens can be filled, in part, by rearranging the workload to use paraprofessionals, technicians, in the engineering department. This allows the skilled technician to move basically into a job opening that occurred for an engineer, a shop worker to train for a skilled technician's job.

Senator SIMPSON. Mr. Keeley, could you summarize very briefly? The time has expired, and I have allowed it to run on. I do have some questions, and that entire statement will be accepted in the record. If you could summarize, please do so.

Mr. KEELEY. I think I summarized it in the statement of position that we certainly consider the entry of these people to be detrimental to our working conditions, and we oppose any increase.

Senator SIMPSON. I understand. Do you feel that the demand for foreign engineers is solely the result of a desire of employers to pay lower wages, or do you believe there are other reasons as well? If you feel that there are other reasons, could you specify to the subcommittee some of the reasons and how you would propose to respond to those inquiries or questions about those reasons?

Mr. KEELEY. I believe the basic reason is the desire for cheaper wages. Both in the aliens' cheaper wages and the competitive effect on American workers'.

Senator SIMPSON. The employer's desire to pay less?

Mr. KEELEY. Yes.

Senator SIMPSON. All right. In your testimony you mentioned the danger of harmful technology transfer, especially when the foreign worker is to return home. Can you supply us evidence that that is occurring regularly or is likely to occur?

Mr. KEELEY. I have one document that discusses an individual case included in the testimony. Page D–1 talks about a Mr. Ho, who was trained at Stanford and worked at IBM, experienced at IBM, and he is now high up in the Taiwanese technology hierarchy.

Senator SIMPSON. All right.

Mr. KEELEY. I think we could, if you would be interested, provide further information on that.

Senator SIMPSON. Anything you could furnish on that we would be very happy to receive for the subcommittee. You can contact Mr. Day, chief counsel and staff director.

You mention that the productivity of U.S. engineers will increase when computer-aided techniques are implemented in the design process, I believe was your statement. Do you believe that the investments necessary for these productivity improvements will be made if foreign engineers can be brought in at a low cost?

Mr. KEELEY. Yes. I do not believe there is any comparison between the savings from a foreign engineer and the savings inherent in these computer techniques.

Senator SIMPSON. All right.

Mr. KEELEY. You will notice a productivity increase of 20 to 30 is cited in one of these documents.

Senator SIMPSON. I would be interested, and I know other members of the subcommittee would also, as to why you believe that aliens represent such a significant proportion of students seeking advanced technical degrees now. Are Americans just not interested? Are they having difficulty paying their educational costs? What is the reason?

Mr. KEELEY. I do not believe I know. I think to a certain extent it is the same mechanism: It is the competition with foreign students rather than the competition with foreign workers.

Senator SIMPSON. Well, those are some of the things that are vexing to us.

What do you believe an employer should be required to disclose or to show before he is allowed to employ a foreign engineer?

Mr. KEELEY. I believe I personally would be satisfied, and I think many, many others would be satisfied, if the jobs were offered to the contract engineering firms, if they were let out to the job shops, and if the job shops would admit they were fairly described and that they could not fill the position, I believe we would consider that adequate evidence.

Senator SIMPSON. I was interested in the recent purchase of Santa Fe Industries by the Kuwait Government. In that package is also the purchase of the Braun Engineering Co.—C. F. Braun, is it?—a very large international engineering company. A very interesting part of that package is their desire for professional engineering capability. That may have been the sweetener that really brought the purchase to pass, which is an interesting thing, again reflecting on the demand for engineering, at least to other countries. Maybe that is not as significant here, but to them it certainly is.

In your opinion, does the labor certification provision in its present form and as currently administered by this government provide U.S. engineers sufficient protection against foreign competition? Obviously, you do not think it does.

Mr. KEELEY. No, I do not believe it does. To the extent that it does, it is only the delay and the inefficiency of the system which provides the protection.

Senator SIMPSON. Do you favor the changes in this labor certification process that have been recommended by the administration?

Mr. KEELEY. I certainly do not favor the one that proposes the issuance of a list of shortage categories.

Senator SIMPSON. All right. You were not here this morning, but this morning we had representatives of the placement services testifying that foreign engineers that they placed were typically very highly qualified, such as a Ph. D. with broad experience in computer technology. They indicated that they were not placing civil engineers, that type thing, but rather these with the special qualifications or higher qualifications. Could you comment on that?

Mr. KEELEY. I do not believe that is accurate, in my experience, at least in the aerospace industry. Many of the British who are coming over, as I pointed out, really have the equivalent of about 2 years of college and a technical certificate rather than a bachelor

of science degree. We probably would have no objection in the engineering community at large, I think, to the Ph. D.'s that come in as distinguished from those.

Senator SIMPSON. Let me ask you, do foreign engineers entering under the family preference category outside of the labor certification process pose a significant problem?

Mr. KEELEY. I suspect that they do, but that they are generated primarily by that labor certification. If labor certification were restricted, then I believe the numbers of these coming in under other preferences would be reduced.

Senator SIMPSON. Well, what changes then, specifically, would you like to see made in the immigration law in general and in the preference system in particular?

Mr. KEELEY. For engineers only, we would propose to bring the contract engineering firms into the process of certification. Companies prefer to hire direct people, even—that is, noncontract people—even when the job is of a temporary or a peak-workload nature.

May I refer to some notes.

We would recommend that a Ph. D. be made the normal requirement, educational requirement, for an H-1 visa, and that others coming in under H-1 visas be if not a Ph. D., be required to show equivalent experience.

We definitely would like to eliminate the blanket certification both as is now practiced and as it is proposed. We would recommend that employers requiring aliens offer at least time-and-a-half pay for overtime to domestic workers similarly employed. Many now have regressive policies that pay little or nothing for overtime and discourage engineers from working overtime.

We would recommend that the prevailing wage paid for temporary immigrants be determined by comparison with the wages of contract engineers as opposed to direct employees.

Those are our recommendations.

Senator SIMPSON. I thank you very much, Mr. Keeley, on your testimony. It is very helpful to us. Thank you.

Mr. KEELEY. Thank you, sir.

[The prepared statement and submissions of Mr. Keeley follow:]

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Prepared Statement of William J. Keeley

Statement of Position

- The number of foreign born engineers entering the United States each year is substantial (1-1, 1-2). This is detrimental to wages and working conditions for American engineers, and harmful to the national interest. AEA opposes any streamlining of procedures which would increase the number admitted (1-3), most especially the advance blanket certification of engineers.

Statement of Motivation

- We are here trying to protect the engineering profession from the harmful effects of a loose immigration policy. Wages for engineers in Britain for example are about half (2-1) those in this country and in the Phillippines less than one fifth (2-2). It is evident that the requirements of workers from these backgrounds will be more modest than those conditioned to American wages, and that filling one of every four position openings from these imports will tend to hold down wages for all employed in the field. Engineers' wages in real dollars are falling, amid cries of shortage. Americans employed in engineering are entitled to protection by their government from harm due to this influx (2-3) and we claim and urgently request this protection. Both party platforms for 1980 assured us we will get it (2-4).

- The contract engineering field is the traditional American way of handling shortages of engineering skills. Contract engineers work temporary jobs to cover peaks in engineering workload, sort of migrant workers. This "spot market" for engineers is particularly susceptible to damage when importation distorts the market.

- The contract engineering resource is being distinctly under-utilized at present, due largely to the competition of imported engineers. Jobs are scarce and overtime is rare. Domestic workers are available through the contract firms to handle any peak engineering workload (2-5).

Arguments for Reducing the Number of Foreign Born Engineers Admitted to the United States

A. Importation does not solve a shortage. It merely results in Americans being replaced in jobs by foreign nationals.

Approximately 20% of engineering graduates each year do not take engineering jobs on graduation (A-1). This will be about 12,000 graduates this year rejecting the profession. In addition, some 18,500 engineers presently in the field will leave (A-1), mostly disenchanted with the profession. It is certain that engineering employers, without difficulty, would improve compensation and working conditions sufficiently to attract or retain additional Americans to make up for any reduction in imports, including a total ban.

It is obvious, then, that importation does not give us more engineers, it only gives us foreign instead of domestic engineers, as Americans choose not to compete for less attractive jobs. Many of those who have the confidence and the initiative to find jobs in a different field are those who would have much to contribute as engineers. Basically it is the better people who leave.

U. S. News & World Report, November 30, 1970 (A-2) reported a shortage of nurses which many employers were combatting by recruiting overseas (A-3). Today, after a decade of this innovative practice (A-5), 500,000 trained American nurses have left the field, the shortage is as bad as ever, and the

profession is a shambles (A-4). A blanket advance certification is in effect for nurses, indicating the government's intention to interfere as little as possible with the flood of immigrants which has wrecked the profession. Employers of nurses could hardly be worse off and would certainly be better off if no importation at all had been approved. Engineers have no desire to witness a repeat of this sorry story with our profession as the victim.

B. The quality of engineering services is reduced when Americans are replaced by foreign born engineers (FBE).

- o Obviously, communication is hampered by the introduction of workers whose native language is different (B-1, 2). Even the British do not speak "American", especially in the technical sense.

- o Many of the imported engineers from less developed countries do not have the lifelong exposure to mechanical/electrical/electronic equipment which contributes to the intuitive "Yankee ingenuity".

- o Many of the British who replace Americans in engineering jobs are not graduate engineers. They hold a Higher National Certificate which is academically equivalent to about two years of college. INS insists, despite our pleas (B-4) on considering this certificate as equivalent to a U.S. Bachelor of Science degree. They are even approving youthful HNC's as engineers of distinguished merit and ability, (H(1) visa) (B-3).

- o How has it worked with the nurses? A nurse answers "The very last place a nurse wants to go when she's sick is into the hospital" (B-5).

C. Savings realized by hiring from abroad are offset by hidden costs.

- o The job taken by an alien is one not available for an American. Through the use of para-professionals (C-1), the engineering position can be used to provide a ladder of advancement for technicians and, at the foot of the ladder, a job for someone without one. Therefore, when we give away a job, we must consider the cost in monetary and human terms, of maintaining someone in a jobless condition and the reduced job opportunities for Americans. Other countries are not so generous with their jobs. Britain requires five years permanent residency to work in the aircraft industry. Besides saving jobs, this limits the exposure to loss of technology (C-7).

- o The costs involved in reduced effectiveness due to low morale (C-2, 3) and the loss of skills due to experienced people leaving the field (C-4, 5) must be partly charged to importation.

- o Money is spent recruiting, transporting, and retraining foreign workers which would be more effectively spent on improving the lot of American engineers (1-3).

- o The country of origin loses the presumably needed skills (the Brain Drain) (C-6). The worker should be more effective in his own country where communication and cultural difference problems do not interfere.

D. The danger of harmful technology transfer is increased by employment of aliens.

- o Most alien engineers who come here on temporary visas stay permanently. Those that go back take substantial chunks of our technological edge with them. An example is the Vice president of Taiwan's National Science Council and director general of a science-based industrial park (D-1). Educated (Ph.D) at Stanford and trained in the U.S. by IBM, he now spearheads a Taiwanese thrust into high technology products.

E. A serious shortage of engineers does not exist now and is not expected in the foreseeable future.

- Two characteristics of a real shortage of engineers would be extensive use of overtime and significantly increased salaries. Today, hardly any engineers are working overtime and salaries are flat or dropping in real dollars (E-1).

- The numbers of engineering graduates are the highest in history, up 78% over 1975 figures and literally skyrocketing (E-2). The most thoughtful analysis of the situation was by Fred Landis of the University of Wisconsin who concluded, "I doubt that even a rapidly growing economy can absorb the number of engineers we will produce by 1983 or 1984" (E-3). Others are reaching the same conclusion (E-4, 5).

- We are in a situation strikingly similar to the late 1960's when a strong wave of graduates was generated by a tight labor market only to fall on the slackened demand of the early 1970's, wreaking havoc (E-6). One component missing from today's picture is the advanced certification which permitted large numbers of aliens to join the flood (1-1). We fervently hope that the Congress does not rectify this discrepancy.

- All seem to agree we are facing a peak in demand to be followed by a slackening. Surely it is sensible to cover this peak with use of overtime and temporary help than to staff for it and have a bloodbath later.

- Engineers will be affected early by computerization (E-7). A recent article stated that productivity of design engineers will be "driven through the roof" by computer-aided design techniques (E-8).

Enclosures.

FROM: SCIENTISTS AND ENGINEERS FROM ABROAD
1976 - 1978
NAT'L SCIENCE FOUNDATION NSF 80-324

Table 1. Immigrant and nonimmigrant scientists and engineers: 1966-78

[In thousands]

	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976[1]	1977[1]	1978
Immigrants	7.2	12.5	13.0	10.3	13.3	13.1	11.3	6.6	6.0	6.9	7.8	8.2	10.5
Nonimmigrants	5.5	5.4	5.6	5.4	6.6	2.4	2.7	4.1	4.9	5.5	6.3	6.8	4.6

[1]Includes computer specialists

Source: Immigration and Naturalization Service and National Science Foundation

THIS WAS ALMOST CERTAINLY MORE THAN THE NUMBER OF JOB OPENINGS FOR THAT YEAR

Table 2. Immigrant and nonimmigrant scientists and engineers by field of specialization: fiscal years 1976, 1977, and 1978

Field of specialization	Immigrants			Nonimmigrants		
	1976	1977	1978	1976	1977	1978
All fields, total	7,782	8,189	10,455	6,446	6,829	4,580
Engineers, total	5,146	5,191	6,762	3,478	3,779	2,566
Aeronautical	32	61	75	18	63	11
Chemical	446	470	481	189	169	146
Civil	697	543	704	158	113	63
Electrical	754	680	916	247	249	168
Industrial	190	205	263	253	44	34
Mechanical	823	676	811	191	130	104
Metallurgical and metallurgists	72	95	86	34	19	11
Mining and petroleum	86	130	135	104	103	33
Sales	46	59	60	34	12	13
Other	2,000	2,272	3,231	2,250	2,877	1,983
Natural scientists, total	1,737	1,983	2,320	2,074	1,904	1,358
Agricultural scientists	241	314	437	352	199	167
Biologists	268	325	334	288	430	285
Chemists	678	752	868	678	578	409
Geologists and geophysicists	119	118	131	204	183	114
Mathematicians	210	228	254	140	124	62
Physicists, astronomers, and space scientists	174	181	208	337	297	289
Other	47	65	88	75	83	32
Social scientists	612	645	784	608	691	371
Economists	336	374	426	460	607	273
Psychologists	131	137	206	68	40	33
Other	145	134	152	80	44	65
Computer specialists	287	370	599	286	455	285

Source: Immigration and Naturalization Service and National Science Foundation

6762
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9328
ENGINEERS ADMITTED IN 1978

BUREAU OF LABOR STATISTICS
BULLETIN 2052 SEPT. 1980

Employment, 1978	3,700
Projected employment, 1990	4,700
Percent growth, 1978–90	27.0
Average annual openings, 1978–90	200
Growth	100
Replacement	100

Available training data:

Degrees in range management:	1977–78
Bachelor's degrees	221
Master's degrees	100
Doctor's degrees	27

Soil conservationists. Most soil conservationists have degrees in agronomy or a closely related field of natural resource science, such as wildlife biology, forestry, or range management. Only a few colleges and universities offer degrees in soil conservation. A background in agricultural engineering and courses in cartography are very useful. The ability to communicate clearly, both orally and in writing, also is important.

Employment, 1978	9,300
Projected employment, 1990	11,400
Percent growth, 1978–90	21.7
Average annual openings, 1978–90	450
Growth	200
Replacement	250

Available training data:

Degrees in agronomy:	1977–78
Bachelor's degrees	1,609
Master's degrees	443
Doctor's degrees	157

Engineers

A bachelor's degree in engineering is required for most entry positions. College graduates who have degrees in one of the natural sciences or mathematics also may qualify for some beginning jobs. Occasionally, experienced technicians are able to advance to some engineering jobs. Graduate training in engineering is being emphasized for a number of jobs, and is essential for teaching and research, and for advancement in many areas.

In all States, engineers must be registered if they offer their services directly to the public, or if they design buildings, dams, or other projects where safety is a factor. Registration requirements include a degree from an accredited engineering school, 4 years of relevant work experience, and passing a State-board written examination. The majority of engineers are not registered.

Employment opportunities for those with engineering degrees are expected to be good through the 1980's. Growth and replacement needs resulting from deaths and retirements are expected to result in an annual average of about 46,500 openings between 1978 and 1990. In addition, many openings will occur each year as employed engineers transfer to other occupations, but the number is difficult to estimate. The major source of supply of engineers is new graduates majoring in engineering. The National Center for Education Statistics projects that about 81,400 bachelor's degrees in engineering will be awarded annually during this period. Followup on college graduates of the 1960's indicate that about 85 percent of the bachelor's degree recipients in engineering, including those who went on to graduate study, actually entered the field. This proportion dropped to 80 percent for graduates during the mid-1970's. Because of the high level of recruiting during this period, this entry rate probably represents fairly accurately the proportion of graduates who seek engineering jobs. If an 80-percent rate continues, an average of about 65,000 are expected to enter the field annually. Other sources of supply are recent graduates in other fields—primarily mathematics and the natural sciences—immigrants, reentrants to the labor force, and transfers from other occupations. The projected large increase in engineering degrees may result in more limited opportunities than in the past for entrants from these sources, however.

Employment, 1978	1,136,000
Projected employment, 1990	1,441,000
Percent growth, 1978–90	26.8
Average annual openings, 1978–90	46,500
Growth	25,500
Replacement[1]	21,000

Available training data:

	1977–78	Projected 1978–90 (annual average)
Degrees in engineering:[2]		
Bachelor's degrees	56,009	81,441
Master's degrees	16,409	16,722
Doctor's degrees	2,440	3,158

[1]Does not include openings resulting from transfers.
[2]Includes engineering technology.

Environmental scientists

Geologists. A bachelor's degree in geology or a related field is appropriate training for many entry jobs. An advanced degree is helpful for promotion in most types of work and is required for college teaching and some research positions.

Employment opportunities in geology are expected to be good for geology and earth science graduates. Growth in the employment of geologists and replacement needs are expected to result in about 1,700 openings each year between 1978 and 1990. The major source of supply of geologists is new graduates majoring in geology and earth sciences. The National Center for Education Statistics projects that bachelor's degrees in these majors will average about 5,400 during this

From Business Week 8[illegible]-17-1

A warmer welcome for foreign technicians

An almost unnoticed provision in the broad package of immigration reforms unveiled by the Reagan Administration on July 30 promises to be a boon to companies searching for scarce technical workers. Although proposals for granting amnesty to aliens in the U. S. illegally and for fining businesses that knowingly hire them have stirred up controversy, there is a good chance that the suggestion to streamline the current job-certification machinery will zip through Congress with little opposition.

Now, 54,000 aliens are permitted to come into the U. S. each year under immigration totals set aside for workers who have skills not available in the U. S. job market, and their families. That comes out to about 20,000 employees a year, of whom almost half are rated by the Labor Dept. as professionals, technicians, or skilled managers. Companies recruit such employees overseas—or interview them on U. S. campuses, where aliens make up about a third of the students earning advanced technical degrees—and then go through extensive paperwork to get their hiring approved by the Labor Dept., the Immigration & Naturalization Service, and the State Dept. It typically takes a year to get approval, and lawyers' fees of $3,000 for handling one application are not rare.

Listing occupations. A major reason for the delay is that would-be employers must prove, on a case-by-case basis, that the job cannot be filled by someone already in the U. S. That means advertising the opening, documenting why applicants are not qualified, and waiting for an O. K. from regional Labor Dept. officials. Under the new approach, says Attorney General William French Smith, who heads the immigration reform effort, the Administration proposes that instead of individual certification, Labor would publish annually a list of occupations for which adequate domestic workers are not available. Then, qualified foreigners with job offers in those categories could automatically get in line for immigration visas.

The change should cut waiting time and expense. "Most of our electronics recruiting people think this would be very helpful," says a spokesman for Harris Corp., the $1.3 billion-a-year Melbourne (Fla.) data and communications company. "They would probably step up overseas recruiting if there was some hope of cutting the red tape."

Among the positions now hardest to fill in the U. S. are those for electronics engineers and for workers at all levels in data processing. North American Placement Service, a Washington firm that runs overseas personnel searches for U. S. companies, also lists as prime targets chemical engineers, nurses, and geologists. On behalf of three U. S. oil companies, it is struggling to bring in British, French, and Scandinavian petroleum engineers ready to emigrate from the Middle East, says North American's vice-president, George Ludlow.

Accommodation. Business would profit from the change by more than speed and lower recruiting costs. There is reason to believe that streamlining the admission process will actually make room for more engineers to enter the U. S., even if

Skilled workers would find entry to the U. S. easier under proposed new rules

the totals are not increased. That is because many of the workers now coming in to fill vacant jobs are live-in maids, clerks, farm laborers, construction workers, assembly-line workers, and others with only limited technical skills. They get the slots either because there is a local shortage of their skill—even though it may be abundant in a nearby state—or because the job search was not very vigorous in the first place so that the potential employer could bring in a particular alien as a favor. "We believe that a lot of the requests we get are really accommodation," admits Aaron Bodin, chief of the Labor Dept.'s Labor Certification Div.

Because the new plan would list only those jobs hard to fill on a national basis, such evasion would be a lot harder, and more visa slots would be left for engineers and other technical personnel. For that reason, organized labor—which closely watches immigration legislation to try to protect members' jobs from new arrivals—is expected to join with business in supporting this change. ■

SUCH ACCOMODATION IS APPRECIATED BY EMPLOYERS, BUT NOT BY AFFECTED WORKERS.

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 656

bor Certification Process for the ermanent Employment of Aliens in the United States

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The Employment and Training Administration of the Department of Labor is amending its regulations relating to the certification of immigrant aliens for permanent employment in the United States. The amendments are intended to clarify some apparent ambiguities in the regulations, to make the regulations easier to read, and to reflect the experience of the Employment and Training Administration in administering the regulations since their promulgation in 1977.

EFFECTIVE DATE: These amendments apply to applications for permanent alien labor certification received for processing on or after January 19, 1981.

FOR FURTHER INFORMATION CONTACT:

. Aaron Bodin, Chief, Division of Labor Certifications, Telephone: 202-376-6295.

SUPPLEMENTARY INFORMATION: On January 22, 1980, the Employment and Training Administration (ETA) of the Department of Labor (DOL) published a Notice of Proposed Rulemaking, proposing to amend ETA's regulations at 20 CFR Part 656, for clarification, and to reflect ETA's experience in administering Part 656 since its effective date of February 18, 1977. See 42 FR 3441 (January 18, 1977). This document adopts final regulations based upon that January 1980 Notice of Proposed Rulemaking. ETA's regulations for the certification of immigrant aliens for permanent employment in the United States are issued pursuant to section 212(a)(14) of the Immigration and Nationality Act (Act), 8 U.S.C. 1182(a)(14).

Permanent Alien Employment Certification Process

:fore the Department of State and Immigration and Naturalization Service (INS) may issue visas and admit certain immigrant aliens to work permanently in the United States, the Secretary of Labor must first certify to the Secretary of State and to the Attorney General that:

(a) There are not sufficient United States workers, who are able, willing, qualified, and available at the time of the application for a visa and admission into the United States and at the place where the alien is to perform the work; and

(b) The employment of the alien will not adversely affect the wages and working conditions of similarly employed United States workers. 8 U.S.C. 1182(a)(14).

If DOL determines that there are no able, willing, qualified, and available U.S. workers, and that employment of the alien will not adversely affect the wages and working conditions of similarly employed U.S. workers, DOL so certifies to INS and to the Department of State, by issuing a permanent alien labor certification.

If DOL cannot make one or both of the above findings, the application for permanent alien employment certification is denied. DOL may be unable to make the two required findings for one or more reasons, including, but not limited to:

(a) The employer has not adequately recruited U.S. workers for the job offered to the alien, or has not followed the proper procedural steps in Part 656.

(b) The employer has not met its burden of proof under section 291 of the Act (8 U.S.C. 1361), that is, the employer has not submitted sufficient evidence of attempts to obtain available U.S. workers, and/or the employer has not submitted sufficient evidence that the wages and working conditions which the employer is offering will not adversely affect the wages and working conditions of similarly employed U.S. workers. With respect to the burden of proof, section 291 of the Act (8 U.S.C. 1361) states, in pertinent part, that:

Whenever any person makes application for a visa or any other document required for entry, or makes application for admission, or otherwise attempts to enter the United States, the burden of proof shall be upon such person to establish that he is eligible to receive such visa or such document, or is not subject to exclusion under any provision of this Act . . .

(c) DOL through its own knowledge and experience, finds that U.S. workers are available and/or that an adverse effect on similarly employed U.S. workers will result, and the employer has not met the burden of rebutting DOL's finding or findings.

Department of Labor Regulations

DOL has promulgated regulations at 20 CFR Part 656 governing the labor certification process described above for the permanent employment of immigrant aliens in the United States. Part 656 was promulgated pursuant to and implements section 212(a)(14) of the Act (8 U.S.C. 1182(a)(14)).

The regulations at 20 CFR Part 656 set forth the factfinding process designed to develop information sufficient to support the granting or denial of a permanent labor certification. They describe the potential of the nationwide system of public employment offices (the "Job Service") to assist employers in finding available U.S. workers, and how the factfinding process is utilized by DOL as the basis of information for the certification determination. See also 20 CFR Parts 601-604, 621, and 651-658; and 29 U.S.C. Chapter 4B.

Part 656 also sets forth the responsibilities of employers who desire to permanently employ immigrant aliens in the United States. Such employers are required to demonstrate that they have attempted to recruit U.S. workers through advertising, through the Job Service System, and by other specified means. The purpose is to assure an adequate test of the availability of U.S. workers to perform the work, and to insure that aliens are not employed under conditions adversely affecting the wages and working conditions of similarly employed U.S. workers.

The amendments made in this document will not change the elements of the program discussed above, which adequately implement the mandate in section 212(a)(14) of the Act (8 U.S.C. 1182(a)(14)).

Comments on Proposed Rule

The Notice of Proposed Rulemaking invited interested parties to submit written comments on the proposed amendments on or before March 24, 1980. 45 FR 4918 (January 22, 1980). More than 500 comments, from individuals and organizations, were received by ETA. All of the comments were reviewed and considered in the preparation of this final rulemaking. Many of the commenters stated that the amendments would clarify, simplify, and improve the permanent alien labor certification process. A number of commenters were critical of one or more of the amendments, and suggested alternatives and improvements. Other comments were outside the scope of the proposed rule. ETA found the vast majority of the comments to be helpful in gaining insight into the way the public views the permanent alien labor certification process, and this document adopts a number of the suggestions submitted by the public. Many of the other comments will be the basis of future consideration for improvement of the program. The paragraphs that follow discuss the comments and the

THIS IS THE STATEMENT OF THE PROTECTION OF AMERICAN WORKERS PROMISED, BUT NOT ALWAYS DELIVERED BY THE SYSTEM

THE REPUBLICAN PLATFORM STATEMENT ON PROTECTION OF AMERICAN JOBS

pledge to reform and rebuild U.S. military assistance and foreign arms sales policies so that they will serve American interests in promoting regional security arrangements and the individual defense needs of friendly nations.

INTERNATIONAL ECONOMIC POLICY

International trade and economic policy

The American economy has an abundance of human and material resources, but nevertheless, it is part of a larger global economy. Our domestic prosperity and international competitiveness depend upon our participation in the international economy. Moreover, our security interests are in part determined by international economic factors. Yet the Carter Administration has largely ignored the role of international economics in relations between the United States and friendly nations throughout the world. The Administration has conducted its international economic policy at cross-purposes with other dimensions of its foreign policy, resulting in strains within the Western alliance and a general decline in the domestic prosperity. Under a Republican Administration, our international economic policy will be harmonized with our foreign and defense policies to leave no doubt as to the strategy and purpose of American policy.

The economic policy of the Carter Administration has led to the most serious decline in the value of the dollar in history. The ability of Americans to purchase goods and services or to invest abroad has been diminished by Carter Administration policies devaluing the dollar. Republicans will conduct international economic policy in a manner that will stabilize the value of the dollar at home and abroad.

The Republican Party believes the United States must adopt an aggressive export policy. For too long, our trade policy has been geared toward helping our foreign trading partners. Now, we have to put the United States back on the world export map. We helped pull other countries out of the post-World War II economic chaos; it is time to remedy our own crisis. Trade, especially exporting, must be high on our list of national priorities. The Republicans will put it there and will promote trade to ensure the long-term health of the U.S. economy.

Exports can play a key role in strengthening the U.S. economy, creating jobs and improving our standard of living. A $15 billion increase in exports can increase employment by 1,000,000, the Gross National Product by $37 billion per year, and private investment by $4 billion per year. Nevertheless, the Carter Administration has placed exporting at the bottom of its priority list. The present Administration's trade policies lack coordination, cohesiveness, and true commitment to improving our export performance. Rather than helping to create strong exporters in the United States and thereby create more jobs for Americans, the Carter Administration's trade policies have discouraged traders. At best, the Administration has adopted a passive approach to trade, merely reacting to changing world economies, rather than actively seeking to promote a global structure that best addresses America's needs. As a result, we lag seriously behind our foreign competitors in trade performance and economic strength. Export promotion will be a central objective of international economic policy in a Republican Administration.

A Republican Administration will emphasize a policy of free trade, but will expect our trading partners to do so as well. The failure of the Carter Administration energetically to pursue negotiations designed to improve the access of American exports to foreign markets has contributed, in part, to protectionist sentiment.

Domestic problems—over-burdensome government regulations, excessive taxation, inflationary monetary policy, and an unstable economy—have contributed to the protectionist sentiments as well. We realize that protectionist legislation has engendered retaliation by America's trading partners in the past resulting in "beggar thy neighbor" policies that had such disastrous consequences in the 1930s.

Republicans are committed to protect American jobs and American workers first and foremost. The Republican Party believes in free trade, and we will insist that our trade policy be based on the principles of reciprocity and equity. We oppose subsidies, tariff and non-tariff barriers that unfairly restrict access of American products to foreign markets. We will not stand idly by as the jobs of millions of Americans in domestic industries, such as automobiles, textiles, steel, and electronics are jeopardized and lost. We pledge to strengthen trade agreements and to change the Carter economic policies that have undermined the capability of American agriculture and industry to compete abroad.

Republicans believe that this nation's international trade balance can be improved through the elimination of disincentives for exporters. Statutory and regulatory requirements that inhibit exports should be reviewed and, where practical, eliminated. We further recognize that government can play a role in promoting international trade by establishing incentives for exports, especially those for small and medium size business. We pledge also to work with our trading partners to eliminate subsidies to exports and dumping.

The ability of the United States to compete in foreign markets is hampered by the excessive taxation of Americans working abroad who contribute to our domestic well-being by promoting international trade. Increased exports to our trading partners result in jobs and a rising standard of living at home. Carter Administration policy has the effect of discouraging the presence of American businessmen abroad due to the unfairly high level of taxation levied against them. A Republican Administration will support legislation designed to eliminate this inequity so that American citizens can fully participate in international commerce without fear of discriminatory taxation.

Our nation must have a strong, competitive, and efficient merchant marine to meet the needs of our international commerce and our national security. We must arrest the significant decline of recent years in the ability of American-flag shipping to compete effectively for the carriage of world commerce. A Republican Administration will revitalize our merchant marine through a responsive and sustained policy. We will encourage the development and maintenance of an American-flag ocean transportation system, staffed with trained American personnel and capable of carrying a substantial portion of our international trade in a competitive and efficient manner. We will promote the development and support of a domestic shipbuilding and ship-repair mobilization base adequate to both the commercial and the national security requirements of the United States.

The security of energy and raw materials access

The security of America's foreign sources of energy and raw material supply can no longer be ignored. The United States imports 50 percent of it domestic petroleum requirements, and depends upon foreign sources for 22 of the 74 non-fuel raw materials essential to a modern industrial economy. Nine of the most critical raw materials are almost entirely (i.e., more than 90 percent) located abroad. In contrast, the Soviet Union imports only two critical minerals at a level in excess of 50 percent of domestic consumption.

Reducing reliance on uncertain foreign sources and assuring access to foreign energy and raw materials requires the harmonization of economic policy with our defense and foreign policy. Domestic economic and regulatory policy must be adjusted to remove impediments to greater development of our own energy and raw materials resources. Democratic policies for federal land management, taxation, monetary policy, and economic regulation have served to increase America's dependence on foreign sources of energy and raw materials. Republicans pledge to work to eliminate domestic disincentives to the exploitation of these resources.

Multilateral negotiations have thus far insufficiently focused attention on U.S. long-term security requirements. A pertinent example of this phenomenon is the Law of the Sea Conference, where negotiations have served to inhibit U.S. exploration of the seabed for its abundant mineral resources. Too much concern has been lavished on nations unable to carry out sea-bed mining, with insufficient attention paid to gaining early American access to it. A Republican Administration will conduct multilateral negotiations in a manner that reflects America's abilities and long-term interest in access to raw material and energy resources.

Resource access will assume an important place in defense and economic planning under a Republican Administration. Since America's allies are, in most cases, more dependent than the U.S. on foreign sources of energy and raw materials, they too have a vital interest in the defense of their access to these critical resources. Republicans pledge to promote allied defense cooperation to assure protection from military threats to overseas resources.

Mr. BAKER. Mr. President, there are three special orders for this morning, are there not?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. BAKER. And those special orders, as I recall, are for the Senator from Tennessee, the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER).

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. BAKER. Mr. President, in recognition of the fact that the distinguished Senator from Texas (Mr. TOWER) is in the Chamber, that he was chairman of the platform committee, and that he has one of the special orders, I ask unanimous consent that all the time under the special orders be aggregated and assigned to him for control, for the remainder of the time allotted.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE REPUBLICAN PLATFORM

Mr. TOWER. Mr. President, I express my thanks to my distinguished leader, Senator BAKER, for his very kind words about my work in connection with the platform committee. I must say, however, that credit goes to a number of people who were determined to work in a spirit of harmony to reach not only for Republican consensus but also for national consensus on a number of vital issues that confront the American people in the election campaign this year.

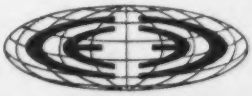
I believe that we were successful in trying to achieve that objective, and our platform does address itself to a number of vital concerns of the American people.

We recognize that, on some matters of moral or philosophic conviction or con-

Contract Engineer

AN INTRODUCTION TO THE CONTRACT ENG'G INDUSTRY

WEEKLY



the Pulse of the Contract Employment Industry

Special Chicago, Dallas, St. Louis Edition *Oct. 13, 28 & 29*

Welcome to our ENGINEERING JOB FAIR

on behalf of C.E. PUBLICATIONS, INC. AND CO-SPONSORING FIRMS

The following contract firms had representatives at the Chicago Job Fair interviewing for current job openings:

- ACA International
- ACA Calumet
- ACE Designing Company
- Ballas Engineering
- Belcan Corporation
- Butler Service Group
- Consultants & Designers
- Espo Engineering Corporation
- K.H. Johnson Company
- Kay & Associates
- Ian Martin Inc.
- Malcolm A. Miller
- PDS Technical
- Pollak and Skan
- Salem Engineering Corp.
- TAD Technical Services
- Technical Aid Corporation

The following contract firms have representatives at the Dallas Job Fair interviewing for current job openings:

- B & M Associates
- Belcan Corporation
- Butler Service Group
- CDI Corporation
- Collins-Phoenix Corp
- Consultants & Designers
- General Devices
- General Engineering
- Kirk-Mayer
- Mulholland Engineering Service
- PDS Technical
- Pollak & Skan
- REP Company
- Salem Employment Consultants
- Stellar Technical Service
- Superior Design Co.
- Technical Aid Corp.
- TES Inc.
- Volt Technical Services
- Western Technical Service
- H.L. Yoh Company

The following contract firms have representatives at the St. Louis Job Fair interviewing for current job openings:

- AIDE of Richmond
- B & M Associates
- Belcan Corporation
- Butler Service Group
- CDI Corporation
- Consultants & Designers
- General Engineering
- Kirk-Mayer
- LPL Technical Service
- PDS Technical
- Salem Engineering Corp.
- Stellar Technical Service
- Technical Aid Corporation
- TES Inc.
- H.J. Tyrrell Company
- H.L. Yoh Company

...PARTMENT OF LABOR
...MANPOWER ADMINISTRATION
MA 7-50A
REPLACES ETA 575A

APPLICATION FOR ALIEN EMPLOYMENT CERTIFICATION

STATEMENT OF QUALIFICATIONS OF ALIEN

B-3

READ THIS NOTICE BEFORE COMPLETING FORMS

To knowingly furnish any false information in the preparation of this form and any supplement thereto or to aid, abet, or counsel another to do so is a felony punishable by $10,000 fine or five years in the penitentiary, or both (18 U.S.C. 1001). Any alien, prospective employer or any person acting on behalf of such alien or employer, who knowingly makes any misrepresentation concerning the alien, or his prospective employment including such matters as wages, hours, or the occupation in which an alien will be employed, or any person who falsely represents, in the execution of this form that he is offering the alien employment as the prospective employer of such alien, will be prosecuted to the fullest extent of the law.

FOR ADVICE CONCERNING REQUIREMENTS FOR ALIEN EMPLOYMENT CERTIFICATION: If alien is in the U.S., contact nearest office of Immigration and Naturalization Service. If alien is outside U.S., contact nearest U.S. Consulate.

IMPORTANT: READ ATTACHED INSTRUCTIONS BEFORE COMPLETING THIS FORM

Print legibly in ink or use a typewriter. If you need more space to fully answer any questions on this form, use a separate sheet. Identify each answer with the number of the corresponding question. Sign and date each sheet.

1. NAME OF ALIEN (Family name in capital letters / First name / Middle name / Maiden name)	2. ALIEN REGISTRATION NUMBER (If any)	3. TYPE OF VISA (If in U.S.)
WHITE Roger John		H1

4. PRESENT ADDRESS (Number and street / City or town / State and ZIP Code or Province / Country)	5. SEX	6. MARITAL STATUS
6806 #A New Seagull Lane Orleans LA 70126 U.S.A.	[X] MALE [ ] FEMALE	[ ] MARRIED [X] SINGLE

7. ALIEN'S BIRTHDATE (Month, day, year)	8. BIRTHPLACE (City or town / State or Province / Country)	9. PRESENT NATIONALITY OR CITIZENSHIP (Country)
March 10, 1951	Bournemouth Dorset England	British

10. ADDRESS IN UNITED STATES WHERE ALIEN WILL RESIDE	11. AGES OF ALIEN'S UNMARRIED CHILDREN UNDER 21 YEARS OLD
6806 #A Seagull Lane New Orleans LA 70126	----------

12. NAME & ADDRESS OF PROSPECTIVE EMPLOYER IF ALIEN HAS JOB OFFER IN U.S.	13. OCCUPATION IN WHICH ALIEN IS SEEKING WORK
Martin Marietta Michoud Operations, P.O. Box 29304, New Orleans, LA 70189	Tool Planning/Manufacturing Engr.

14. 'X' the appropriate box below an, furnish the information required for the box marked

[ ] A. ALIEN WILL APPLY FOR A VISA ABROAD AT THE AMERICAN CONSULATE IN ▶ (City in foreign country) (Foreign country)

[X] B. ALIEN IS IN THE UNITED STATES AND WILL APPLY FOR ADJUSTMENT OF STATUS TO THAT OF A LAWFUL PERMANENT RESIDENT IN THE OFFICE OF THE IMMIGRATION AND NATURALIZATION SERVICE AT ▶ (City) New Orleans (State) Louisiana

15. NAMES AND ADDRESSES OF SCHOOLS, COLLEGES AND UNIVERSITIES ATTENDED (Include trade or vocational training facilities)	FIELD OF STUDY	FROM Month	FROM Year	TO Month	TO Year	DEGREES OR CERTIFICATES RECEIVED
Bournemouth Technical College Dorset England	Aeronautical Engr.	Sept	1967	Oct	1972	Full Aeronautical Tech.
Kingsleigh Comprehensive Sch Bournemouth Dorset England	General Education	Sept	1962	Aug	1967	6XG.C.E 'O' Level Cert's
Kingsleigh Junior School Bournemouth Dorset England	General Education	Sept	1958	Aug	1962	
Kingsleigh Infants School Bournemouth Dorset England	General Education	Sept	1956	Aug	1958	

SPECIAL QUALIFICATIONS AND SKILLS

16. ADDITIONAL QUALIFICATIONS AND SKILLS ALIEN POSSESSES AND PROFICIENCY IN THE USE OF TOOLS, MACHINES OR EQUIPMENT WHICH WOULD HELP ESTABLISH IF ALIEN MEETS REQUIREMENTS FOR OCCUPATION IN ITEM 13

FULL 4½ YEAR APPRENTICESHIP IN ENGLAND IN AERONAUTICAL ENGINEERING DURING WHICH TIME 1½ DAYS PER WEEK WERE SPENT AT TECHNICAL COLLEGE AT WHICH I GRADUATED AS A FULL AERONAUTICAL ENGINEERING TECHNICIAN.

LIST LICENSES (Professional, journeyman, etc.)

Technical Engineer registered as an associate member by the Institution of Production Engineers.

17. LIST DOCUMENTS ATTACHED WHICH ARE SUBMITTED AS EVIDENCE THAT ALIEN POSSESSES THE EDUCATION, TRAINING, EXPERIENCE AND ABILITIES REPRESENTED

4½ YEARS OF 1½ DAYS PER WEEK IS LESS THAN 2 YRS FULL TIME SEE ATTACHED SHEET

ENDORSEMENTS

DATE REC. DOL

O.T. & C

ONE OF ABOUT 40 SIMILAR FORMS WE HAVE ON BRITISH TECHNICIANS BROUGHT IN AS ENGINEERS OF "DISTINGUISHED MERIT OR ABILITY" ALL ABOUT 30 YR OLD

Items continued in reverse

Make no entry in this section for government agency use only
Apr. 1970

B-4

THIS MAILGRAM IS A CONFIRMATION COPY OF THE FOLLOWING MESSAGE:

7145494911 MGM TDRN SNTA ANA CA 415 04-28 0729P EST
ZIP
COMMISSIONER COSTELLO IMMIGRATION AND
NATURALIZATION SERVICE
425 I ST NORTHWEST
WASHINGTON DC 20213
REF: FOREIGN ENGINEER RESIDENT VISAS.

THIS IS OUR REQUEST TO INS TO STOP TREATING HNC AS EQUIVALENT TO A B.S.

PLEASE STOP ISSUING TEMPORARY AND PERMANENT RESIDENT VISAS TO BRITISH TECHNICIANS WHO HOLD HIGHER NATIONAL CERTIFICATES (HNC) WHEN THE LABOR CERTIFICATION (FORM MA7-50A OR B) STATES THE "MINIMUM" REQUIREMENTS BABS DEGREE. THIS REQUEST IS MADE BECAUSE THE US DEPARTMENT OF LABOR HAS INDEPENDENTLY VERIFIED (NANDOR KERTAI 202-376-6982) THAT A HNC IS ONLY EQUIVALENT TO 2 YEARS OF COLLEGE EDUCATION. CURRENTLY BOEING IN SEATTLE IS EMPLOYING 92 ALIENS HOLDING HNC'S WHEN THE MA7-50B FORM THAT LPL FILED REQUIRES A BS DEGREE. PLEASE CANCEL THE TEMPORARY RESIDENT VISAS OF THESE WORKERS AND ASK THEM TO LEAVE THE UNITED STATES.

NORTHRUP AND HAWTHORNE IS CURRENTLY EMPLOYING AT LEAST 8 ALIENS WITH TEMPORARY RESIDENT VISAS ON THE F-18A AND F-5 PROGRAMS. AS YOU KNOW THE DPET OF DEFENSE INDUSTRIAL SECURITY MANUAL STATES "A FOREIGN NATIONAL WITH NO INTENTION OF BECOMING AN AMERICAN CITIZEN CANNOT BE PUT ON A DEFENSE CONTRACT" (DOD5220.22-M). AS YOU ALSO KNOW, THAT THE IMMIGRATION AND NATIONALITY ACT REGULATES THE ADMISSION OF IMMIGRANT AND NON IMMIGRANT ALIENS INTO THE UNITED STATES. SECTION 1101 (A) (15) (H) (II) 8USC DEFINES "NON IMMIGRANT ALIENS" AS FOLLOWS: (H) "AN ALIEN HAVING A RESIDENCE IN A FOREIGN COUNTRY WHICH HE HAS NO INTENTION OF ABANDONING". IF YOU CANNOT DO ANYTHING ABOUT THIS PLEASE BRING THIS MATTER TO THE ATTENTION OF THE PROPER ENFORCEMENT AGENCY IN THIS COUNTRY.

WHEN I APPLIED FOR A JOB THROUGH THE LOCAL EMPLOYMENT OFFICE AND ASKED SPECIFICALLY TO BE PLACED AT MCDONALD DOUGLAS IN LONG BEACH THROUGH CDI IN COSTA MESA, I WAS TOLD BY THE INTERVIEWER "I HOPE THATS NOT A "99" JOB.... A "99" JOB IS WHERE THE COMPANY ALREADY HAS AN ALIEN IN MIND.... I HAVE NEVER HAD A HIRE ON A "99" JOB AND I'VE WORKED FOR THE EMPLOYMENT OFFICE FOR 16 YEARS". SINCE APPLYING FOR THE JOB I HAVE HAD ANOTHER WOMAN WHO HAS WORKED FOR THE EMPLOYMENT OFFICE FOR 17 YEARS TELL ME "I NEVER EVEN BOTHER TO SEND ANYONE OUT "99" JOB AS THE

TO REPLY BY MAILGRAM, SEE REVERSE SIDE FOR WESTERN UNION'S TOLL - FREE PHONE NUMBERS

COMPANIES DON'T INTEND TO HIRE AN AMERICAN ANYWAY, THEY'RE JUST LISTING THE JOBS BECAUSE THEY HAVE TO". I HAVE THEIR NAMES AND PHONE NUMBERS IF YOU ARE INTERESTED.

ONCE AGAIN, LET US PLEASE ASK YOU TO STOP ISSUING TEMPORARY AND PERMANENT RESIDENT VISAS TO ALIEN ENGINEERS UNTIL THE QUESTION OF THE VALIDITY OF THE LABOR CERTIFICATIONS IS STRAIGHTENED OUT.

WE WOULD APPRECIATE IT IF YOU WOULD TELL US IF YOU ARE NOT IN ANY POSITION TO DO ANYTHING ABOUT THIS AND IF SO, WHO WE SHOULD CONTACT.

AMERICAN ENGINEERING ASSOCIATION
RICHARD L HURWITZ
NATIONAL CHAIRMAN
7145494911

19:30 EST

(More Anguished Cries C-3

FROM THE MORNING MAIL: "Recently, I talked to a laid off General Electric - Louisville - engineer and he said that the most outrageous insult was when he was asked to train a new (entry-level) engineer for his job before he left." (C.R., SC)....."I am considered an expert in my specialty, but I am taking a real estate course so I can make money." (W.S., MD)....."We need a nationwide letter writing campaign (to 'Letters to the Editor' of newspapers and magazines) to explain to the public the regenerative cycle of engineering supply and demand. ... This would probably decrease engineering enrollment." (S., CT)....."My observation of the utility consulting engineering firms in the Metropolitan New York City area is that the English language is an endangered species." (Working EE, NJ)

"When I retired in 1973 (at age 73), I decided to slowly reduce my technical activities one after the other. Now, having past 79, I think it is time to stop these activities altogether. Accordingly, I would like you to remove my name from your mailing list. You have been doing a fine job for the working engineer and I greatly appreciate your many contributions." (Eric T. B. Gross, Philip Sporn Professor Emeritus, Rensselear Polytechnic Institute, NY)....."I have written to the Nominations and Appointments Committee in support of your candidacy for VP for Educational Activities." (J.B., MA)....."The debates you have prompted are important in making people think and talk about constructive improvement of professionalism among EEs." (J.C., MA)

"The October issue of The Institute featuring the debate on open vs. secret voting (by IEEE's Board of Directors) is the latest reason why your voice needs to be heard. I have sent in my Reader Service Form (and indicated my strong preference for open voting). You should urge everyone to do the same." (S.S., MO)....."A recent interview for the job of Senior Circuit Designer/Project Engineer at Thornton Associates (Waltham, MA) led to the information that the salary would be at most $25K. It was admitted by the interviewer that he had difficulty in filling the job, and that some recent graduates even rejected more. The story would be amusing ... were it not for the fact that the principal is on the MIT faculty." (Working EE, MA)....."I would like to suggest that the topic of 'salary inversion' be examined. ... By this I mean the fact that white collar salaries are gradually being overtaken by the blue collar wages." (W.A., IN)....."Thanks for trying." (A.T., NJ)

"Regarding your criticism of Bernie Gordon. Yeah, I guess I see your point that he is getting some product engineering 'cheap'. But the other side of the coin is that the students are getting a hell of a good education ... cheap." (R.P., CA)....."Although many of your readers urge formation of a new society for EEs, I instead wish to urge the takeover of the IEEE. I believe your continual prodding ... has been partially effective." (R.W., CA)....."I have resigned my IEEE membership. The enclosed check is what I would have had to pay (on top of my company's contribution). I know you will put it to much better use." (R.T., FL) ....."Please continue to expose the practice of unpaid overtime, age discrimination, wage busting, non-transferrable pensions, and other unprofessional treatment of engineers." (D.F., VA)....."Although I was very disappointed with your actions in the last election, I feel you are needed." (J.B., MO)....."After 31 years as a member of IRE ... and finally IEEE, I am retiring. The highlight has been your endeavors these past years, to which I have contributed ..." (D.C., CA)....."You have an excellent grasp of the problems that engineers face, and what is more important, you offer workable solutions and constructive steps that engineers can take to improve their careers." (P.C., NY)

This month, in addition to the usual appeal for funds to maintain the effort to elevate our professional lives, I thought a new twist might be in order. After you have sent in your check, please make a copy of this newsletter and send it to a colleague who may not otherwise see it. Ask him/her to request that he/she be added to our mailing list. In this way, we will grow. And remember, the basic dues for IEEE is now $55/year. By comparison, anything you send us is a bargain.

FROM THE MORNING MAIL: "I am sending this check to help out those people who are still engineers. I have quit. I am now a sales rep making more money than I could as an engineer. I find that very sad because of the amount of work that went into my masters degree." (Working EE)....."I was going to quit sending money until I saw the piece about 1% of each U.S. region required for a petition candidate. Wow!" (R.L., NY)....."I urge you to start another organization where you can implement your ideas. The engineers in this country need to be awakened and led." (G.B., MA)....."You almost make me believe in the tooth fairy. I enjoy the hell out of your monthly input." (P.G., OR)

"All foreign governments should be required to post bond in hard currency or domestically negotiable assets to ensure that all temporary aliens and students will return to their native land, as agreed. ... I suggest $100,000 per alien." (R.D., TN)....."I continue to be heartened by your energy and determination to help EEs so someday they (or we) may be able and willing to form an organization that has economic as well as technical clout." (D.J., CA)....."Find out what they are hiding in the subpoenaed documents." (T.R., MA)

"Employers have our personnel records, academic records, health records, and our blood types. What do we professionals know about the inner workings of our employers? It's about time we engineers collected some statistics and published the track records of our many employers for the entire profession to inspect before wasting one, two, or three years learning the hard way. "(D.W., CA)....."We EEs need you to express our thoughts. Keep going." (T.M., CT) ....."IEEE needs a needle in its side. Your newsletter serves a useful function in awakening many naive engineers." (M.H., CO)

"I believe that we EEs as a group will develop very little horsepower until we organize (unions if you like) and develop a pressure group like doctors, teamsters, air traffic controllers, etc. As it stands now, we have little control over our own destiny." (C.B., MD)....."In a way, you have the same problem as a preacher in church. All the regular attendees hear, understand, and agree with the message. How does he reach the much larger number outside? Answer: Through the general public press and TV." (N.K., CA).....Keep up the good work to allow only our peers to pass judgment as to whether or not we are engineers - not non-engineer management." (L.G., CA)....."Your newsletter is sometimes irrational but usually provocative and stimulating; it performs an important service for EEs." (A.C., CA)

HERE WE GO AGAIN: The New York Times (4/23/80, p. D3) reports that Chrysler Corporation is dismissing 6,900 white-collar employees. The cuts will be across the board, and "many of the cuts will come from the company's central engineering division ..." And the academics still cry, "Engineering shortage."

ELECTRO '80: Several readers have written to suggest that I announce that I will be present at this IEEE show, scheduled for 5/12 to 5/15. OK. I'll be there the night of Wednesday, 5/14/80 at the Sheraton Hotel (adjacent to the Hynes Auditorium). Ask at the desk for the room. I plan an open house (no refreshments, no anything, except an exchange of ideas) from 4PM until 11PM. Please try to drop around or call 617/367-3600.

STEPHEN SONDHEIM: This popular composer seems to have written the ideal song to precede the arrival of IEEE's Board of Directors into their meeting room. After a , with its heavy numbers of non-engineers, corporate executives, and college professors all pretending to speak for the American working engineer, what could be more appropriate than "Send In The Clowns"?

Once again, we must remind all readers of the very great need for their checks. Only your constant support of this effort will show the hierarchy of the engineering societies how determined we are to have them change. I am more than willing to donate whatever time it takes to do this, but I must insist that the costs for the postage, printing, etc. be borne by the readers. And should this support falter, then we will all know that too many American engineers have stopped caring.

ELECTRONIC DESIGN NEWS

CONTRIBUTES TO THE LOSS OF EXPERIENCED ENGINEERS

AD-B1-09-02-1

Age discrimination—the readers reply

(Ed Note: As reported in EDN's August 5 editorial, we received a great many comments on our age-discrimination survey (EDN, May 27, pg 43). A representative sample of these remarks follows. We thank all of you for taking the time to offer us your views.)

Anyone who stays in electronics engineering past the age of 40 or more than 20 yrs is a damn fool.

Your survey is very important and timely, but I don't think there will ever be any significant improvement in the situation.

The salary differential between older engineers and newcomers to the field isn't that great, so that's not the reason for age discrimination. Rather, retirement benefits are more important. Young engineers don't retire. Thus, the company saves money.

If you are over 40 in this profession, you can kiss your future goodbye.

I'm in favor of continuing age discrimination in all aspects of life. To do otherwise unnaturally strains our social, economic and legal systems. Our goal should be to help people optimize the use of their life spans.

Age discrimination is caused by an overabundance of engineers. I know of no other profession that has almost 30% of the current totdl of practitioners now enrolled in school, waiting to displace those workers. If this problem is to be solved, engineers must do it themselves. Don't look for help from employers.

In my opinion, early termination isn't the major problem. Rather, it's the ubiquitous, *unwritten* company policy that declares that no one over 50 is considered for promotion, regardless of qualifications. What a waste to the company and loss (of pension dollars) to the EE!

Why did you word your questions toward your expected results? An impartial survey would have been far more interesting.

Age and obsolescence can be tied together through supervision. If a company can save money by using new hires rather than older engineers, its engineering management is incompetent. It shouldn't cost any more to keep an experienced EE motivated to prevent obsolescence than it should to train a new hire.

I changed jobs at age 45 because I saw 17 engineers—some of whom I personally knew to be outstanding workers—laid off at one time. Their sin? They were all within 1 to 3 yrs of becoming vested for their pension rights.

Federal age-discrimination laws—like all laws—are ineffective. Just give lawyers enough time to find ways to circumvent the law's intent, and they will do so.

Older engineers must keep abreast of technology changes; they must stay competitive in that sense. But they still might be discriminated against because of age, nonetheless.

Often, older engineers aren't allowed to work on new technology—those assignments go to younger EEs. In one case, a company conducted an updating course on digital controllers, supposedly to provide attendees with skills the firm needed. But not one of the men who completed the course was ever assigned a project to use his newly acquired knowledge.

With all the bottom-line Equal Opportunity notices in engineering ads, some could regard it as incredible that you raise the question of age discrimination in employment. But many older engineers who have sought out such jobs have been left wondering what those notices really mean.

Current federal policies are encouraging employees to spend more years on the job to relieve the strain on the Social Security system. If age discrimination exists, what are senior EEs supposed to spend the added time doing?

The only engineer I personally know who might have been a victim of age discrimination was definitely in the "deadwood" category.

Older engineers are less willing to keep up to date and less inclined to relocate when necessary. Their jobs go to the young by default.

Age discrimination might not exist if you have a job, but if you are unemployed it certainly does!

The best man for the job is the best man for the job, no matter what his age is. I'm 26 now, but when I'm 54, if some kid can do a job better than I can, then I'm in trouble. And I'll be the one responsible, not my employer.

In the final analysis, it all comes down to: "Sell thyself, engineer!" Those EEs who do a good job at managing their own future enjoy success. Those who do a poor job suffer the consequences. You must wave your own flag; your future is in your hands.

Looking at the World

ASIAWEEK

The Global Brain Trade

The Third World's struggle to keep its experts

Beth Ullmann/Taurus

"More than 60,000 physicians have emigrated from the Third World."

This is excerpted from the newsmagazine "Asiaweek" of Hong Kong.

For every million people in the developing countries there are about 100 doctors; in the West, the figure is closer to 2,000. Yet over the past two decades, more than 60,000 physicians and surgeons have emigrated from the Third World to settle in Europe, North America, and Australia.

In the developing countries, 72 per cent of the population has completed its meager education by age twelve; in the West, 86 per cent goes on to a higher education. Yet during the 1960s and 1970s about a quarter of a million university graduates moved from the developing countries to seek a new life in the affluent North.

Most of those who go have been educated at State-supported universities in their home countries, their schooling paid for from sparse and precious fiscal resources. Yet when they pay their taxes, the money goes to the already bulging—by Third World standards—coffers of a prosperous adopted country.

The emigrants are typically the brightest and most professionally ambitious of their peers. When they arrive in, say, the U.S. they tend to be in their twenties and thirties, with a productive career before them—all presented with the compliments of countries such as the Philippines, Bolivia, or Sri Lanka. UNCTAD (the UN Conference on Trade & Development) has calculated the value of this "reverse foreign aid" since 1961 at $46 billion.

This will be the subject of a good deal of soul-searching, head-shaking, and speechifying in Paris in September when the UN holds a conference to consider ways of alleviating the plight of countries at the bottom of the development ladder. A recent outline of the aims of the conference coincided with a report on North-South technology transfer issued by the Paris-based OECD (Organization for Economic Cooperation & Development), the twenty-four-member club of developed countries.

Does the young doctor have a patriotic duty to stay home and be poor? Must the brilliant young researcher forgo any chance of working in a world-class laboratory? Are these emigrants taking selfish advantage of their fellow countrymen by selling their talents at rates prevailing in the North? Some commentators believe so; at least, they say, the developed countries should reimburse the costs of educating the deserters.

These questions were tackled at the UNCTAD V conference in Manila late in 1979. There, many speakers pressed for a UN-devised formula for taking these human resources into account as "exports" in the balance of payments in the same way as are natural resources or "invisibles" like tourism and technology.

But the advanced countries don't really need those Third World graduates or particularly appreciate their contribution. They have enough doctors and researchers of their own—often a surplus—and view acceptance of educated immigrants as generosity. If forced to pay for them, they would, in most cases, simply restrict entry visas. In some developing countries woefully short of trained personnel that is seen as a workable solution. Because the developing countries cannot match the material advantages of emigrating, incentives to remain at home are few and they must rely on exit-control programs to keep their human resources.

At first sight one UNCTAD-aired proposal seems the perfect way of stemming the brain drain. Education, it was suggested, should be directed away from Western models. People should be trained thoroughly, but in another mode that would not be applicable in Western society. This approach does not stand up to closer examination, however. Who would write the courses? On what premises? Nearly all textbooks used in Asia and Africa now are written in English or French—the languages of instruction.

In Paris the focus will be on the poorest of the Third World's nations—a thirty-member group known as the Least Developed Countries. The thirty countries on the list are rapidly losing ground. Twenty years ago their income per capita was roughly half of what it was in the full list of developing countries; today it is less than a third due to prices of imported fuels, food, and manufactured goods.

Obviously, the least developed countries cannot get out of the mire by themselves. Help has to come from the developed countries of OECD, the OPEC countries, or the centrally planned countries of the Soviet Bloc. The slight strains on the budgets of the advanced countries will be a small price to pay. ■

LOS ANGELES TIMES TT-81-09-20-1

New Industrial Park Expected to Generate $3 Billion in Sales

Taiwan After High Technology Growth for '90s

By MICHAEL PARKS, *Times Staff Writer*

HSINCHU, Taiwan—Perched on a grassy hillside here are half a dozen modern factories turning out lasers, computers and precision instruments that Taiwan's economic planners hope will become the nucleus for a multibillion-dollar, high-technology complex, an Asian version of California's Silicon Valley.

From its present export industries of textiles, shoes, plastics and household electrical products, which have produced 25 years of solid economic growth, Taiwan is looking to high technology to assure its continued fast-pace development into the 1990s.

"We want to introduce industry that is based on science and high technology so that brain power replaces brawn," said Irving T. Ho, director general of the Hsinchu Science-Based Industrial Park and vice chairman of Taiwan's National Science Council.

"For two decades, Taiwan has concentrated on labor-intensive industries," Ho said in an interview. "This has provided jobs, started our industrialization and earned us foreign exchange. This strategy has generally served us well. But now we are on a development plateau, and we must break away from labor-intensive industries to continue our growth. Neighboring countries have lower labor costs, making it difficult for us to compete, and we are being pushed forward, like it or not."

Increasing competition from Hong Kong, Singapore, South Korea and recently the Philippines, planners here say, is exactly the stimulus Taiwan needed to resolve the prolonged debate over its development strategy. Government and corporate officials had been torn between remaining with the proven export industries and scrambling for new markets in order to grow, or leaping into new fields, primarily high-technology industries.

With research-and-development costs high and their return unpredictable, few Taiwan companies wanted to gamble on such a new strategy, and even the government was wary of a major reorientation of the economy.

"The risks of moving into high-tech industries did frighten some people," Ho said. "In fact, we have a lot of room for developing such industries at a minimal risk because our labor costs, only $1.50 an hour, are a quarter of those of the United States or West Germany. This means we can get into production of developed high-tech products and then gradually into development engineering and eventually into some research."

21 Companies Have Contracts

This is the plan for the Hsinchu complex, about 45 miles southwest of Taipei. Twenty-one companies, 12 of them American affiliated, have contracts to open $35 million in development and production facilities.

With the attraction of tax holidays, exemption from import duties and even venture capital provided by the Taiwan government, the Hsinchu industrial park expects to draw more than $1 billion in capital investments by 1989.

Ho said current plans call for the park, first authorized in 1976, but slow to start, to concentrate on the electronics industry, including computers, data processing, microwaves, optics, precision instruments and machinery, energy sciences and the development of new materials such as rare earth metals.

"We are interested in any sophisticated, high-technology area with strong growth prospects in the 1980s," he said, "but it must be through the blue-sky stage already. We want winners, particularly if we invest as we intend to as venture capitalists. Our interest is not pure research, but development research and development engineering."

200 Firms by 1989

Among the first tenants at the park are the Taiwan subsidiary of Wang Laboratories, the Massachusetts computer firm; Flow Industries of Seattle, which markets water-powered drills and cutting tools, and a local subsidiary of Melles-Griot of Irvine, Calif., which is producing laser components.

Other American affiliated firms include Microtek International, Quartz Frequency Control, Numertek Computer Control, Algol Technology, Warner Electric and Domore Industries.

"Our expectation, our 10-year plan, is to have about 200 firms here by 1989 with a total investment of at least $1 billion and sales that would be several times that," Ho said.

"More importantly, we expect that this science-based industrial park will raise the technological level of all our industry. Certainly, it will lead to the development of vendor companies, such as those making precision tools or supplying electronic components, but we also believe that the research and development work done here will lead to many new products, many new companies throughout the economy."

Ho, an electrical engineer trained at Stanford University, cites the Stanford Industrial Park as the model for Hsinchu.

Cherries and Grapes

"When I finished my Ph.D. at Stanford, Silicon Valley was cherry orchards and vineyards, and electrical engineers could not get a job on the West Coast," he recalled. "I had to go east and work for IBM. Now, Silicon Valley has the highest concentration of research and development laboratories and high-tech industries in the world . . . . We have somewhat the same problem, and we hope we can solve it as successfully."

The problem is not just economic, Ho continued, but also social. Taiwan's universities and technical colleges now train 6,500 graduate engineers and 15,000 technicians a year—far more than it has jobs for.

"On a per capita basis, we educate 50% more engineers than the United States does each year, but many cannot work at the jobs for which

How Many Engineers Will Graduate During the Eighties?

And can the economy absorb the engineers who will graduate in the next decade? After examining data on student numbers and employment, the author concludes that historical information can provide little guidance in arriving at conclusions.

SHOWS ENGINEERING ENROLLMENT AND GRADUATING CLASSES SKYROCKETING TO RECORD LEVELS.

Fred Landis
University of Wisconsin—Milwaukee

The doubling in the number of engineering freshmen between 1975 and 1979 and the continued increase in engineering student registrations has raised many issues about the near-term future of enrollments. Are we likely to double the number of our graduates from 1980 to 1984? What will happen thereafter? Will we see a repeat of the drastic loss in enrollments that was experienced between 1969 through 1971 owing to the economic downturn?

If at any time between 1958 and 1977 we had asked, "How many engineers will graduate within the next five to ten years?" the answers would not have varied much from year to year by today's standards. Between 1958 and 1977 the annual bachelor's degrees awarded fluctuated only between 33,000 and 45,000. It probably would also have been suggested that the number of graduates correlated closely with the number of freshmen who entered four or five years earlier, and that their choice of engineering might have depended on the then prevailing economic climate. This conclusion would have been based on the assumption that

Table 1. Engineering Enrollment, Graduation and Employment Data.

Year	Full-time Freshmen[1]	Full-time Juniors[1]	Bachelor's Degrees[1]	Average Engineering Employment[2,3]	DS&E Index[4]
1952	51,631		30,286	531,850	
1953	60,478		24,164	568,700	
1954	65,505		22,236	591,300	
1955	72,825		22,589	623,900	
1956	77,738		26,306	677 150	
1957	78,757		31,211	719,100	
1958	70,029		35,332	74*,950	
1959	67,704		38,134	784,550	
1960	67,556		37,808	817,200	
1961	67,575		35,860	853,250	100.0
1962	64,707		34,735	897,950	127.0
1963	65,740		33,458	936,300	97.2
1964	73,682		35,226	956,700	76.8
1965	79,872		36,691	983,500	135.3
1966	78,400		35,815	1,019,100	190.3
1967	77,551	50,483	36,186	1,051,300	143.5
1968	77,484	50,274	38,002	1,074,100	114.8
1969	74,113	50,039	39,972	1,092,900	108.4
1970	71,881	49,855	42,966	1,112,000	54.0
1971	58,556	48,543	43,167	1,093,000	41.8
1972	52,100	45,874	44,190	1,102,000	74.5
1973	51,925	41,673	43,429	1,094 300	110.7
1974	53,444	43,007	41,407	1,108,000	123.3
1975	75,343	49,338	38,210	1,150,000	74.4
1976	82,250	56,836	37,970	1,190,000	101.7
1977	88,780	64,271	40,095	1,267,000	147.9
1978	95,805	69,816	46,091	1,265.000	191.8
1979	103,724	74,928	52,598	--	—

FOR 1980, 1950, & 1951, SEE ATTACHMENTS. THE ESTIMATE I SAW FOR B.S. DEGREES, 1981, WAS 68,000.

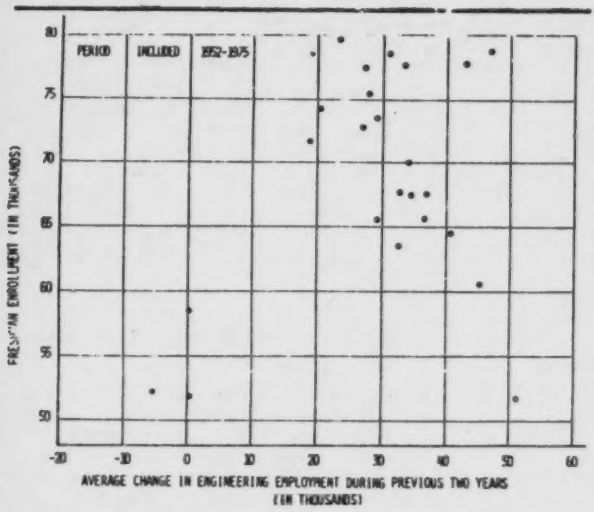


Figure 3. Freshman enrollments vs. average change in engineering employment during previous two years (1952-1975 data).

freshman engineers or an equivalent of 135,000 to 140,000 total freshmen in 1979.

We probably cannot assume that this percentage remains constant. In times of economic stress, this hidden pool will be much more volatile; students in junior colleges have not yet made a firm commitment to engineering and are less likely to transfer once the employment situation worsens. And worsen it will. I doubt that even a rapidly growing economy can absorb the number of engineers we will produce by 1983 or 1984.

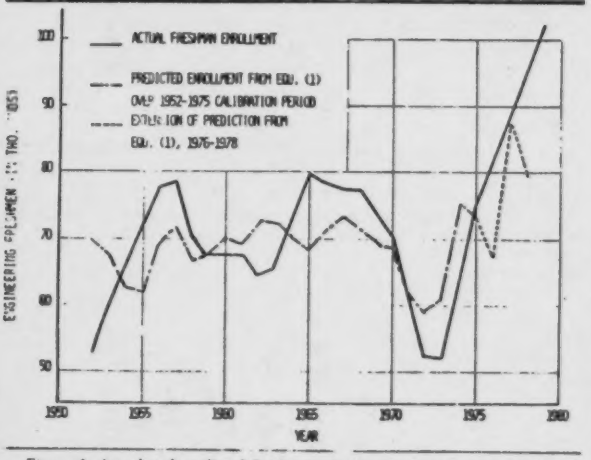


Figure 4. Actual and predicted freshman enrollments from equation (1) based on economic factors.

The prediction of engineering graduates from the freshman pool available four or five years earlier has now become much more questionable; we are on safe ground only for a two-year period.

Freshman Enrollment as a Function of Economic Factors

If freshman engineering enrollment is indeed a function of the economy and of actual engineering employment shifts, some historical correlations should be possible. It might be expected that enrollment will vary primarily with changes in engineering employment during the previous one or two years; if actual engineering employment goes up, so should freshman enrollment. Of secondary importance might be the absolute level of engineering employment; the greater the number of total engineers, the greater the number of job openings due to retirement or to moves into other fields, including management.

A large number of correlations were attempted over the reference period from 1952 through 1975. Only one correlation, which positively related numbers of freshmen with an increasing employment, was found to be statistically significant:

$$\text{No. of freshmen} = 38{,}347 + 0.3906\,\Delta + 0.0208\,E \qquad (1)$$

where Δ = average change in total engineering employment during the previous two years

and E = average total engineering employment during current year

Unfortunately, the correlation coefficient is only 0.50 with a standard error of 7,947. Or, in terms of the coefficient of determination, only 25 percent of the observed behavior can be ascribed to the postulated relationship.

The limited success of a simple correlation should not be surprising if the actual data for Δ and enrollment are plotted as shown on figure 3. If the three points on the left (corresponding to 1971-1973) had been omitted, predicted freshman enrollment would have decreased with an

Personal & Professional

EMC's biennial report gives salary update

In March 1980, median annual salaries were $19,600 for beginning U.S. engineers and $35,233 for those with 3 yr of experience. For comparison, the respective median amounts in mid-1978 were $16,050 and $31,900, reports the Engineering Manpower Commission (EMC). Both inflation and salary compression have had an adverse effect on engineering incomes, notes EMC. For example, an engineering starting at $4,050 in 1953 made slightly over $35,000 in March 1980. One starting at $5,850 in 1958 earned about $34,500 in early '80. One starting at $7,300 in 1964 got a little more than $32,000, and an engineer beginning in 1970 at $10,500 received about $28,600 as of 10 months ago.

COMPUTER AIDED DESIGN/MANUF.

GE's commitment to CAD/CAM paces capital expenditures

The head of CAD/CAM operations for General Electric estimates that 25% to 33% of his firm's $1.4 billion pegged for capital investment in 1980 went for "equipment and systems incorporating a significant content of computer-aided design and computer-aided manufacturing capability." CAD/CAM at GE reportedly is growing at the rate of 20% per year. The driving force behind this growth is an excellent record of productivity improvement—as high as 20 or 30 to 1—in existing installations, says Dr. R.W. Schmitt, VP for corporate R&D, Schenectacy, N.Y.

THIS PRODUCTIVITY INCREASE MAY KILL OFF THE DESIGN ENGINEER

Land-locked 'oil' deposits to spur technology initiatives

During the 1980s, equipment expenditures for recovering energy from North American oil shale and tar-sands deposits will total $8 billion, predicts Frost & Sullivan Inc., New York. The market-research firm notes that over 75% of the world's recoverable deposits of oil shale—equal to about 600 billion barrels of oil—are located in the U.S. Recoverable deposits of tar sands are 900 billion barrels in Canada's province of Alberta; U.S. tar sands will contribute an additional 30 billion barrels. Major new programs undertaken by U.S. and Canadian governments are expected to develop fully these non-conventional energy resources by 1990, says Frost & Sullivan.

Engineers top '81 list of 'most sought' professionals

Competition for high-technology talent will reach unprecedented levels in 1981, predicts Fox-Morris Personnel Consultants, Philadelphia. Electrical and electronics engineers will lead the 1981 demand spiral, followed closely by mechanical engineers. Design engineers will continue to be much sought-after, adds Sanford L. Fox, particularly in the fields of data processing, communications, microprocessor control systems, and consumer products. He also expects defense-related engineering jobs to "abound under the new presidential administration," and for energy-related engineers with experience in synthetic fuels to "be greatly prized."

Number of U.S. engineers approaches 1.5-million mark

The first report in a new biennial series by the National Science Foundation indicates that the U.S. had 1,375,200 engineers in 1976. This number rose to 1,396,400 in 1978, and was projected to reach 1,491,900 in 1980. The mid-1980 report, *Science and Engineering Personnel: A National Overview*, also examines factors such as employment and supply patterns for all U.S. engineers, the status of doctoral engineers, dynamics of engineer mobility in the job market, and role of women and minorities in engineering.

Modernized engineering curricula may help boost U.S. productivity

A national consortium of 12 universities has begun work with industry and government "to modernize engineering and applied-sciences curricula for the 1980s." Supported by a $305,925 grant from the National Science Foundation, the consortium aims to incorporate computer graphics, computer-aided design, and computer-aided manufacturing into engineering education as soon as possible. "Unless we train students in the use of computers to speed up design and manufacturing, they will not be able to provide the increased productivity and innovation U.S. industry needs to stay competitive," says NSF.

"What do you mean you're not getting any recognition? Two gold stars in one week is certainly recognition!"

Foreign Group Of EEs Booked For U.S. Jobs

By Robert Feldman

SAN JOSE, CA — A sizable group of foreign electronics engineers hired overseas in response to the domestic engineer "shortage" will start working for a major manufacturer of industrial controls early next year, *EE Times* has learned.

Though the group numbers only 17—seven from Poland and 10 from the Philippines—their arrival is certain to stir bitter controversy in the profession. Furthermore, the same head-hunting agency bringing in the vanguard group also has plans to import "a large number" of EEs for Rockwell International. This second group is to work on the B-1B bomber project for the U.S. Air Force which, if approved by Congress, will start up later in the year.

The head-hunting firm, Omni Personnel Services of San Jose, told *EE Times* the name of its client company for the initial group, but asked that it not be published.

(See "Foreign," Page 2)

Foreign Engineer Group Due Soon; Thousands Of Filipinos Seek Visas

(Continued from Page 1)

"At this time, they would rather not deal with the commotion the announcement would create," explains Omni's director, Rodrigo Alaura.

Alaura's agency, which began by importing Filipino nurses to fill a shortage in U.S. hospitals seven years ago, advertised recently that it could obtain technical workers from the Philippines at a "sizable reduction in wages."

Confronted on this issue in his small office on Stevens Creek Boulevard here, however, the 33-year-old Filipino-born entrepreneur hesitated, and then said that his people would come in at "the prevailing starting salary, about $20,000 or $21,000 a year—what a starting EE would make just out of college.

"But foreigners who want to stay here will work twice as hard for their employers," Alaura added. "And don't forget, these men have had five years of experience or more in their fields. The boss gets the benefit of that without extra cost."

Alaura pointed out that, in the Philippines, unemployment is running at 36 percent. Moreover, the five major engineering schools continue to graduate about 2000 BSEEs a year.

"There are 100 applicants for every engineering job in the Philippines," he said. "And if you're lucky enough to get one, the pay averages about $300 a month. Now, if you were one of these guys, wouldn't you be happy to work in the U.S. for even the minimum wage, let alone the $1500 a month [rather less than $20K/year] they will actually earn here? To the typical Filipino worker, America is heaven."

Stored in the memory disks of a TRS-80 in Omni's office are biodatas of thousands of engineers and technicians, both employed and unemployed, in Manila. In addition, several hundred Filipinos presently working on microwave projects in Saudi Arabia, and wishing to immigrate to the U.S., are available.

In the last two-and-one-half years, Omni has placed more than 200 Filipino engineers and technicians in Saudi Arabia for Collins Systems International, a division of Rockwell International. Fifty more are now enroute to Collins headquarters in Texas, where they will undergo training before Collins ships them to its microwave projects in Saudi Arabia.

Before the first batch of foreigners arrives to work in the U.S., Omni will obtain the H-1 visas, good for one year, needed by temporary workers. The process should take two months, Alaura estimated, during which Omni would also prepare accommodations for them in Silicon Valley, where they will work for the first six months.

The client company is currently reviewing the individual applications. Checking of qualifications and references in the Philippines and Poland will be done by the respective U.S. embassies. The men, who will all receive thorough physical examinations, are in their late 20s and early 30s, and are predominantly unmarried. Under native law, the Filipinos are obliged to send 30 percent of their wages either to relatives at home or to a trust account in the Philippines central bank.

Congress is currently considering amending the immigration law to ease the procurement of H-1 visas for skilled immigrants in occupations and professions where there is a U.S. scarcity.

Under the present law, a prospective employer must prove, on a case-by-case basis, that the job cannot be filled by someone already in the U.S. The paperwork can take as long as 18 months and cost thousands of dollars in legal fees.

Routine Visas Seen

A new procedure proposed by the Administration would dispense with the individual certification. Instead, the Department of Labor would publish an annual list of occupations where labor is in short supply. H-1 visas would be routinely granted to any qualified foreigner.

The total quota for such visas might still be limited (under present law, it is fixed at 54,000 a year), but more of the H-1 immigrants would be engineers and other genuinely scarce professionals. Under the present individualized system for granting the visas, much of the quota has been used up by "border-jumpers"—ordinary aliens coming in on dubious certifications to "accommodate" relatives or friends.

North American Placement Service, a Washington head-hunting firm, has brought in thousands of aliens to work

(Continued on Page 10)

FILIPINO ENGINEERS WORK FOR $300/MONTH IN THEIR COUNTRY

[From U.S. News & World Report, Nov. 30, 1970]

SHORTAGE OF NURSES—NO SOLUTION IN SIGHT

A growing shortage of nurses—now described as critical in some areas of the U.S.—is worrying health officials and adding to the hazards of illness.

Hospitals in big cities are particularly hard hit. At the same time, complaints about the difficulty of finding nurses for home care keep rising.

Warnings are heard that, with medicare and medicaid programs financing hospital care for more and more millions of people, the shortage is certain to worsen.

Latest statistics show that about 720,000 registered nurses are now active in their profession in the U.S.—155,000 fewer than needed.

By 1975, the need will be for a million RN's, but all indications are that the total available then will fall short by nearly 200,000.

For years, the Federal Government, States, communities and private institutions have been trying to expand the number of nurses, but have not succeeded in catching up with demand.

One example of what the lack of nurses can mean—

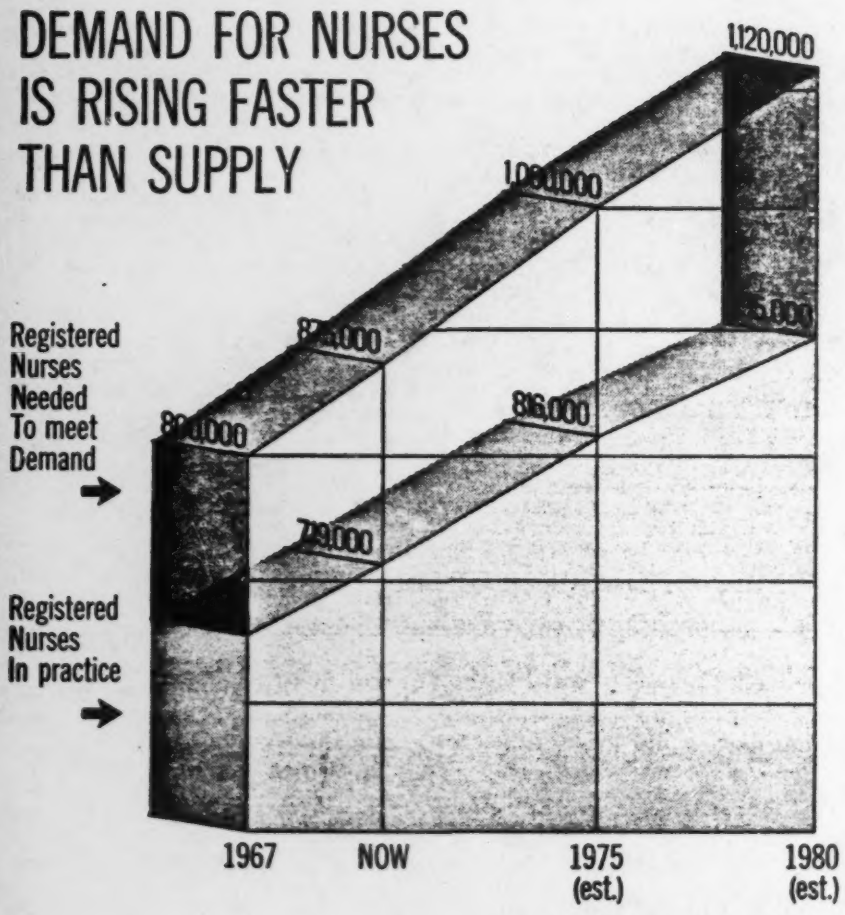
PREVENTABLE DEATHS

In mid-November, senior physicians of New York City's 18 municipal hospitals charged that "hundreds of preventable deaths annually" were being caused by a critical shortage of nurses.

The doctors said that, on the average, public hospitals in New York City have fewer than 40 per cent of the staff nurses authorized in the budget. Three hospitals were listed as having fewer than 10 per cent.

City officials replied that "intensive recruitment programs" have brought 1,400 nurses into the municipal hospitals yearly, but that "the system loses 1,200 nurses each year because of the shortage of decent housing near the hospitals and for other reasons."

The protesting physicians urged immediate steps to recruit more nurses and to improve their living conditions so that those who are recruited will stay on the job.



Basic data: U. S. Dept. of Health, Education and Welfare

ENLISTING THE RETIRED

As a partial answer to New York's problem, the city has begun a program to train policemen and firemen who are approaching retirement to become nurses. The program is supported by a federal grant from the Department of Health, Education and Welfare. If it works out well, HEW officials say, other cities may be encouraged to try the idea.

But many hospitals cannot wait for training programs. Some of them are recruiting nurses from foreign countries. For instance—

New York City's Mount Sinai Medical Center is advertising in nursing journals in Britain, Canada, Australia and Ireland. The Washington, D.C., Hospital Center has imported nurses from Sweden. Chicago's Cook County Hospital has brought nurses from the Philippines. In Dallas, the Parkland Memorial Hospital last year filled 104 nursing posts with personnel from abroad.

The relatively high pay of American nursing jobs impresses foreigners. Standard fees established by State nurses associations for private-duty nurses range from $22 to $40 for a basic eight-hour day, with overtime running as high as $7.50 an hour.

In many localities, earnings of nurses are escalating sharply. A case in point: Pay for registered nurses at 11 San Francisco hospitals now ranges from a minimum of $8,220 annually to $10,200 after four years' service—which, with recently won fringe benefits considered, is just about double the wages earned in 1966.

BACK FROM RETIREMENT

Despite improvements in pay, hundreds of thousands of qualified nurses in the U.S. are not practicing their profession. Viewing the search for nurses abroad as only a stopgap solution to the shortage, health authorities are pressing a drive to lure American RN's back to work.

Says Barbara Jury, director of nursing at the California Hospital Medical Center in Los Angeles:

"Perhaps 30 percent of the registered nurses living in Los Angeles County are not now employed in their profession. If they came to work, the shortage would be relieved."

Miss Jury believes that economic conditions may influence many nonpracticing nurses to return to their profession. Her comment:

"When the cost of living goes up and income in some families is reduced by cutbacks in working hours or even a job loss, nurses will be seeking work again."

Refresher courses are being set up for nurses returning to the profession after long absences.

The Federal Government is aiding in this by supporting 15 nurse-retraining programs with contracts totaling 1.2 million dollars. State and local governments and individual hospitals across the country are engaged in similar activity.

MORE FRINGES

Because most of the nurses who are being urged to go back on the job are married and have children, many hospitals are offering special fringe benefits, such as these:

All Saints Episcopal Hospital in Fort Worth, Tex., operates—on a round-the-clock basis—facilities for the care of employes' children while the parents are at work.

Methodist Hospital of Southern California, in Arcadia, maintains a nursery school for children of hospital workers. The school is open nine hours a day, six days a week.

Offers of part-time nursing work are becoming widespread. Married women are being encouraged to brush up on their nursing skills and then supplement family income by working the hard-to-fill night shifts at hospitals.

UNUSED FACILITIES

Hospital administrators say that the nursing shortage is responsible not only for inadequate care of patients in some institutions but that it also is preventing use of vitally needed facilities.

Two instances, that tyify the problem: Shortage of nurses has prevented opening of three entire floors of a 200-bed addition to the hospital of Baylor Medical Center, in Dallas. In Omaha, a 30-bed section of one hospital has been closed since last June for lack of nurses to staff it.

HOME DUTY

It is not only in hospitals that the need for more nurses is acute. Many people are complaining that it is becoming increasingly troublesome to obtain the services of a nurse for home duty.

In most communities, recommended procedure when a nurse is needed to care for a patient in the home is to call the district nurses' association or the local health department, which maintain registries of nurses available for jobs. However, one widely echoed school complaint goes like this:

"You just can't get a nurse without incessant telephoning for replacements or substitutes for those who either promise to show up and don't or who, for some reason, won't stay on the job."

Fear of going out at night in crime-infested cities and plentiful opporunities to take on assignments in daytime at convenient places are among reasons given for difficulties in persuading a nurse to take on night duty in a private home.

Health experts say that the sparse availability of nurses for home duty is a growing problem, especially in the nation's inner cities, small towns and rural areas.

CLOSING THE GAP

Federal officials say they are hopeful that the nurse shortage eventually will be overcome. Health, Education and Welfare Department figures show that between 1950 and 1967 the number of active registered nurses in the U.S. increased by 76 per cent. The number of licensed practical nurses rose by 134 per cent in the same period; the total of nursing assistants of all kinds by 244 per cent. If these growth rates continue, the situation should be eased, HEW spokesmen suggest.

Among other developments cited in the drive to overcome the shortage:

More retired nurses are returning to active duty.

Training programs in big-city poverty areas and in the rural South are beginning to show results, though hampered by lack of instructors.

Work loads of registered nurses are being lightened by increased use of nonprofessional personnel for routine nursing tasks.

But on the other side of the coin, new duties for registered nurses and new demands for their professional services also are developing.

The American Medical Association recently proposed that nurses take over many of the duties now being performed only by physicians. This would help to relieve the current shortage of doctors, the AMA said.

But, the American Nurses' Association pointed out, it would add to a nursing shortage that is already severe—and growing worse.

[From Bureau of Labor Statistics, Bulletin 2052, September 1980]

ENGINEERS

A bachelor's degree in engineering is required for most entry positions. College graduates who have degrees in one of the natural sciences or mathematics also may qualify for some beginning jobs. Occasionally, experien[illegible] technicians are able to advance to some engineering jobs. Graduate training in [illegible]neering is being emphasized for a number of jobs, and is essential for teachi[illegible]nd research, and for advancement in many areas.

In all States, engineers must be registered if they offe[illegible]heir services directly to the public, or if they design buildings, dams, or other projects where safety is a factor. Registration requirements include a degree from an accredited engineering school, 4 years of relevant work experience, and passing a State-board written examination. The majority of engineers are not registered.

Employment opportunities for those with engineering degrees are expected to be good through the 1980's. Growth and replacement needs resulting from deaths and retirements are expected to result in an annual average of about 46,500 openings between 1978 and 1990. In addition, many openings will occur each year as employed engineers transfer to other occupations, but the number is difficult to estimate. The major source of supply of engineers is new graduates majoring in engineering. The National Center for Education Statistics projects that about 81,400 bachelor's degrees in engineering will be awarded annually during this period. Followup on college graduates of the 1960's indicate that about 85 percent of the bachelor's degree recipients in engineering, including those who went on to graduate study, actually entered the field. This proportion dropped to 80 percent for graduates during the mid-1970's. Because of the high level of recruiting during this period, this entry rate probably represents fairly accurately the proportion of graduates who seek engineering jobs. If an 80-percent rate continues, an average of about

65,000 are expected to enter the field annually. Other sources of supply are recent graduates in other fields—primarily mathematics and the natural sciences—immigrants, reentrants to the labor force, and transfers from other occupations. The projected large increase in engineering degrees may result in more limited opportunities than in the past for entrants from these sources, however.

Employment, 1978	1,136,000
Projected employment, 1990	1,441,000
Percent growth, 1978–90	26.8
Average annual openings, 1978–90	46,500
Growth	25,500
Replacement [1]	21,000

[1] Does not include openings resulting from transfers.

AVAILABLE TRAINING DATA

	1977–78	Projected 1978–90 [1]
Degrees in engineering: [2]		
Bachelor's degrees	56,009	81,441
Master's degrees	16,409	16,722
Doctor's degrees	2,440	3,158

[1] Annual average.
[2] Includes engineering technology.

[From Machine Design]

SHADES OF 1970?

(By Fran Lavoie, Managing Editor)

Remember 1970? That was when the aerospace industry went belly-up, throwing thousands of engineers out of work. Many of those unfortunates ended up driving cabs, selling real estate, or opening fast-food emporiums. A not insignificant number chucked the field permanently.

During the height of the bloodletting, there was a lot of government-generated noise about retraining with the politicians orating about how our nation's engineers were a valuable resource and should be supported during bad times so they would be available when needed. But nothing much happened and most laid-off engineers were left to their own devices.

Eventually the sun broke through, business improved and Joe Engineer once more found companies laying out the welcome mat. Once again it appeared that the good times were here to stay.

Now it seems the good times may be turning bad again. This time, the auto industry is the culprit. Ford, Chrysler, and even General Motors, ravaged by foreign imports, high energy costs, and changing consumer tastes, are laying off engineers.

The current situation has an air of *deja-vu*. As in 1970, engineers as a whole aren't doing too badly, although overall demand has turned spotty. Only one segment is really hurting. And as in 1970, reports are being heard that laid-off automotive engineers are too specialized and high-priced for the "mundane" industries which need engineering help.

There are differences, of course. Things are not nearly as bad as they were in 1970. In fact, certain fields are booming; petroleum engineers, for example, are being snapped up at salaries that raise the eyebrows of the most blase observer.

And there are promising indications that things might not get much worse. If the new cars described in this issue are successful, the auto industry will rebound. Too late for some, perhaps, but in time to avoid the kinds of dislocations we saw ten years ago.

Even if the current situation doesn't develop into a 1970-type debacle, it should serve as a reminder to all of us. Engineering is—and most probably always will be—a cyclical profession.

Engineering is still as rewarding as it's ever been—and just as chancy. It's a wise practitioner who remembers that, and plans for the future accordingly. When times get bad, you won't be able to count on anyone else to bail you out.

[From Newsweek, Sept. 22, 1980]

An Acute Shortage of Nurses

Grace Ricco-Peña, a San Francisco nurse, can't forget one horrendous night she spent in charge of a hospital intensive-care unit. Everything seemed to go wrong. One of her patients went into cardiac arrest. Another started bleeding. By morning, Ricco-Peña was exhausted from dealing with emergency after emergency. As she was trying to update patient charts, someone in the oncoming day shift complained that the narcotics had not been properly signed out. "After the night I had had, that was the final straw," says Ricco-Peña, 34. "I started crying and couldn't stop." On the advice of a psychiatrist, she gave up intensive-care nursing.

Ricco-Peña was a victim of "burnout," an occupationtal affliction among hospital nurses throughout the nation. Its causes: the stress imposed by the high technology of modern medical care, long hours, low pay and, most important, a pervasive dissatisfaction with the roles that nurses are asked to play in the hospital. "Hospital nursing is crazy," says a nurse at New York's Mount Sinai Hospital. "It's too mentally and physically exhausting. You just give out." As a result, staff nurses are leaving the wards for doctors' offices, industry clinics, teaching and private care. "Nurses are dropping like flies every day," says Sarah Moody, assistant director of nursing at Parkland Memorial Hospital in Dallas.

Imports: This disenchantment has created an acute shortage in U.S. hospitals. Of the 1.4 million registered nurses in the United States, 25 percent have left the field. There are currently 90,000 to 100,000 nursing vacancies in hospitals, with 88 percent of institutions unable to fill available positions. Recently Houston's Ben Taub General Hospital almost had to call off the opening of a new surgical intensive-care unit: only last-minute recruitment of 35 nurses from the Philippines provided enough staff to open it. The importation of about 9,000 nurses from abroad each year, and a slight rise in the number of male nurses, hasn't alleviated the shortage.

Feminism has made nursing careers less attractive to many young women. They resent the image often presented to the public. "Just tune in to any soap opera," says surgical nurse Marilyn Wilken of Chicago's Rush-Presbyterian-St. Luke's Medical Center. "What other group of professionals is shown either talking on the phone or ducking into linen closets?" Women now have more career choices than ever before—including a better chance of going to medical school. "Nursing is perceived as women's work, a cumulation of tasks, and that does not appeal to the professional woman," says Barbara Nichols, who is president of the American Nurses' Association. Last year, for the first time in a decade, the number of nursing-school graduates dropped below the previous year's level.

Effort: The biggest reason for the shortages is widespread frustration among nurses over working conditions. Before the second world war the nurse was intimately involved in one-on-one primary care of her patients. With the growth in the number of hospitals after the war—and the beginning of the nurse shortage—nursing became a team effort. The nurse became an administrator, supervising aides, technicians and less-skilled workers. She was often forced to give up the more satisfying task of tending to patients. Instead, says Toni Propotnik, forner president of the California Nurses' Assocation, "you fight with dietary to get a bowl of cornflakes. You fight with the laundry to get sheets. You fight with housekeeping to sweep up broken glass. The hospitals would do a lot better if s were allowed to nurse."

With nurses spread so thin around the hospital, patient care is bound to suffer. The neonatal-care unit at Chicago's Cook County Hospital has only half the nurses it needs to manage the 65 fragile lives in its incubators. At New York's Mount Sinai, the fifteen-bed adolescent unit is short five nurses and an eight/bed respiratory intensive-care facility can accept only four patients because there aren't enough staffers. "Patients aren't getting their medications, i.v. bottles run dry and severe mistakes are being made," says a Mount Sinai nurse. Nurses at New York's Harlem Hospital recently struck to protest inadequate air conditioning in operating rooms.

Nurses no longer are expected to stand when a white-coated doctor enters the room, but relations between the two professions remain strained. "Doctors have traditionally wanted nurses to be handmaidens who will be seen and not heard, and many are still clinging to the old traditions," says Charles White of the California Hospital Association. San Francisco R.N. Linda Kline recalls a physician telling a group of interns, "You can't trust nurses, you know."

Nurses have good reason to complain about their wages and hours. The average annual salary for an R.N. is around $13,000. "Nurses are not compensated for their responsibilities," says Susan Harris, president-elect of the California Nurses' Associ-

ation. "We're paid less than garbage collectors, but you can't kill a garbage can." Long and erratic work schedules are another complaint. Since each outgoing shift briefs the oncoming one, nurses must stay longer than the standard eight-hour tour. Nurses often work double shifts, and switch from day to night duty every few weeks. "That kind of schedule is not conducive to a happy family life," says Rosemary Sheridan of the New York State Nurses' Association. More than half the nation's R.N.'s have small children, adding to the difficulty posed by shift changes.

Most nursed used to graduate from hospital-based nursing schools. Today an increasing number have college degrees, a trend advocated by the American Nurses' Association and many leading hospitals. But college graduates are apt to feel overqualified for the tasks they perform. "I can do a physical exam and tell you if something is wrong," says a New York nurse, "but I can't do it officially—only doctors can." Ironically, nurses teach fourth-year medical students how to hang i.v. bottles or draw blood, but are generally not permitted to perofrm these functions without a doctor's supervision. "Salaries, benefits and what nurses are allowed to do haven't kept pace with their education and experience," says Sheridan.

The Gap: Some nurses seriously question the value of college training. They argue that textbooks don't teach the practical skills needed on the wards. "Degree grads are terrible bedside nurses," says Houston hospital nurse Ruth Ann Miller. "I've seen some who didn't know how to take blood pressure." But the college graduates blame the hospitals for not providing orientation to bridge the gap between academe and the bedside. "We were thrown on the floor without knowing what to do," says a nurse at New York's Mount Sinai. "One nurse gave a patient a drug intravenously that should have been given orally. She almost killed him."

To get the nurses they need, some hospitals have resorted to ingenious recruiting techniques. Parkland Memorial in Dallas recently signed up 70 British nurses with offers of $13,692-a-year salaries, advances to cover plane fare and free accommodations for 30 days. Mills Hospital in San Mateo, Calif., lures nurses with the promise of a four-day Hawaiian vacation if they stay a year. A few California hospitals enlist nurses as bounty hunters, paying them up to $500 if they talk a colleague into joining the staff.

The shortage has forced many large hospitals to hire temporary help from agencies that provide nurses. Agency nurses can pick and choose their jobs and usually receive higher pay than staff nurses. The reliance on agencies has drawn fire, both because they increase the cost of running a hospital and because temporary nurses may not be sufficiently qualified. "Sometimes I was put in charge of units I had no familiarity with just because they needed a warm body," says Linda Kline, who has worked for agencies in the Bay Area.

To reduce their dependency on agencies, some hospitals have set up their own in-house pools of nurses. These nurses fill in for absent staffers but may choose the shifts they want. Hospitals are also experimenting with more flexible shifts. At Houston's Hermann Hospital, nurses can work twelve-hour shifts and then get every other weekend off. Memorial Hospital Northwest in Houston uses "sleep call" nurses for night duty in short-staffed maternity units. During this shift the nurse can sleep unless she is needed in an emergency. In addition, some hospitals offer day-care centers.

But hospital administrators and nurses agree that recruiting gimmicks, schedule juggling and fringe benefits will not end the nursing shortage. "No amount of money or benefits is going to keep nurses in hospitals if they are unhappy," says California's Susan Harris. One way of making nurses happier is the return of one-on-one primary care. At an increasing number of hospitals nurses are being given total responsibility for a few patients, usually teaming up with a physician. This promises to improve the working relationship between doctors and nurses and, once again, give nurses the professional responsibility they deserve. "The nurse of the future," says Joan King of the California Nurses' Association, "intends to be a separate but equal partner."

[From the EE Times, Sept. 1]

Worth It?

(By Lester Ostroy)

The letters in the September 1 issue of EE Times about alien engineers vs. American engineers and degreed engineers vs. nondegreed engineers are all about an engineer's worth. Worth determines the treatment received from employers and clients

and it determines the pay scale. But worth is not intrinsic. It's determined by supply and demand. In America today, there are too many engineers. Consequently, worth is low.

The September 1 issue of EE Times, circulation over 100,000 engineers, had 28 classified job ads from named corporations. At the same time, it was registration time around the country for hundreds of thousands of new engineering students at our bloated engineering schools. Do you see the message of the future?

While Feerst and Hurwitz and others are valiantly tryint to hold back the foreign engineers trickling into the U.S., a huge tidal wave of fresh new American faces is about to engulf the profession.

There's no hope.

[From the EE Times]

PROFESSIONAL PIPELINE

(By Cathy Figorito)

BRITISH ENGINEERS: WILLING TO MAKE THE MOVE

A recent survey conducted by Bernard Hodes Advertising, Inc., a leading recruitment-advertising agency with offices throughout the nation, indicates that project engineers in the United Kingdom are willing to relocate in the U.S. and that they are currently earning salaries that fall well below those of their American counterparts—a median of $16,450 as compared to the $31,874 reported by the National Society of Professional Engineers.

The random sample of engineers was chosen from the mailing list of a popular British engineering magazine. Respondents were asked to place themselves in one of four categories: project engineers, design engineers, production engineers, and R&D engineers. Of the total return, 562 indicated they were primarily engaged in project engineering.

Although the industries represented by the responding engineers varied, most were involved in either electronics (33 percent) or electrical (28 percent) engineering. Another 20 percent were mechanical engineers, 10 percent were in aerospace, and 8 percent in instrument engineering.

Although the majority of project engineers said they were happy with their current jobs, 73 percent said they would be prepared to accept a new position. Of that group, 86 percent had six to 10 years' experience.

Forty-three percent of those willing to take a new position said they would be willing to relocate in the U.S., 35 percent chose the Continent or Scandinavia, and 8 percent each chose the Middle East and Africa.

[From the St. Louis Post-Dispatch]

CONTRACT AEROSPACE ENGINEERS ASSAIL PAY POLICIES

(By Geof Dubson)

Government can make sure U.S. aerospace firms offer jobs to American engineers before recruiting foreign workers, but it can't do anything about pay scales that that Americans find too low but that foreigners are willing to accept, says U.S. Rep. Harold Volkmer, D-Hannibal.

Volkmer, a member of the House Judiciary Committee that is responsibile for immigration legislation, talked about foreign employment in American aircraft companies at a meeting of the St. Louis chapter of the American Engineering Association Tuesday evening at the Airport Hilton Inn.

The engineers complained that American aerospace companies offer salaries too low for many American contract engineers—who are not regular employees and work for limited periods of time, usually six months—but which are high enough to attract foreigners.

"You're going to have to devise your own methodology to deal with that," Volkmer said "That's not something I can take up with the Department of labor or the Immigration and Naturalization Service."

What he will do, Volkmer said, is continue to press federal authorities to monitor the aerospace industry's compliance with existing laws.

Under federal law, he said, aerospace companies that need contract engineers must consult a government-kept list of U.S. engineers. Only after that can the companies seek government approval for a work permit for a foreign engineer, Volkmer said.

"But if all they're offering is $25 an hour, I understand that in a place like Southern California (where many aerospace plants are located), $25 an hour isn't all that much," Volkmer said.

Arthur L. Martin, a former McDonnell Douglas engineer, explained that while $25 an hour ($52,000 a year for a 40-hour week) seems like a good salary to some people, it's less than it seems for contract engineers.

"That's with no fringe benefits," Martin said. "No vacations, no sick leave, no retirement. It's estimated that a direct engineer (regular employee) gets 30 to 40 percent of his pay under the counter in benefits. We have to get that much more in wages to stay even.

"But a lot of us are independent type people. We like the life," he said. Martin himself recently left contract work at McDonnell for a job in Texas.

"It's secret work on satellites. I really can't discuss it," he said.

One man at the meeting, Ray Hamilton, told Volkmer that the United States should adopt laws to protect its own workers, as other nations have.

"In Britain, I can't work," Hamilton said. "The aircraft industry is protected, and you have to be a permanent resident for five years before you're allowed to work in the aircraft industry."

Hamilton, a mechanical engineer, said he is from Oregon and is working at McDonnell Douglas under a six-month contract. He lives in a mobile home near Lambert Field.

"Why do we allow people who are not legally American citizens to come in and work, yet there are Americans in the same industry who are out of work?" Hamilton asked.

The American Engineering Association filed a lawsuit in federal district court in Los Angeles last October charging seven major airplane manufacturers, including McDonnell, with violating federal laws by hiring foreign workers at low wages. The suit is pending.

[From Digital Design]

Computers Kill Jobs

A "boomerang effect" is about to spur microcomputer/minicomputer growth. It is a backlash phenomenon not yet noticed by the computer industry. Even among those few economists who first predicted it, it's not recognized as the precursor that will bootstrap U.S. industry and society into a four-day workweek.

From 1976 to 1980, American firms substituted labor for capital: rather than improve productivity with more efficient machinery or computers, U.S. companies preferred to merely increase their work force. To meet increased industrial and consumer demands, the companies increased their labor force and added more shifts. These decisions were often made without deliberation, let alone consideration, of future impact. This was done for several reasons. Much money was being invested in non-productive equipment or products that met environmental, safety and anti-pollution requirements. A slide in net income since the 1969–70 recession, from which (non-computer) corporate profits never really recovered, left less for new equipment. Firms, fearing a recession in 1978–80, were reluctant to allocate too much money for new equipment or for increased plant size. This fear of over-capitalization and expansion extended to high-growth industries, which didn't want to repeat 1974–75. Their fears were groundless.

This all adds up to bad news for the general labor force—but even greater growth than anticipated for our computer industry. With the economy expected to break out of its recessionary turn in 1981, inflation (now about 12.5 percent) is expected to edge upwards again. However, this time, firms will not follow the 1976–80 scenario of substituting labor for capital. Instead, with improved computer-based systems now available, 1981 economics will dictate that computer-based systems replace more labor functions.

For the computer/electronics industry, for its employees and for its employers, this spells good news; for the unskilled and semi-skilled workers, it spells trouble. What is about to happen has no historical precedent. Most assembly jobs will vanish in eight years. Volvo (to use only one example) says it can design a plant using μP-driven assembly equipment that is run by only 12 people; it replaces 1,200 workers.

"Blue collar robots" are about to replace many job functions that don't require too many "smarts". These jobs require less human judgment and exist in clearly definable steps. They'll go first; middle management jobs will go next as computer-based systems take over more decision-making. The impact on office automation and production lines will hit blacks, women and Hispanics very hard. This alone could spawn some tough anti-computer legislation when reformers like Ralph Nader get hold of the computer industry. At all levels, robots and computers offer advantages: they rarely make mistakes, are tireless and faster workers, and don't belong to unions—nor do they file grievances. Computers have already begun to throw workers onto unemployment; the replacement process is subtle, and most firms don't make the process visible.

We must honestly face up to and accept a fact: computers kill jobs. And, jobs created by computers no longer make up for eliminated jobs. Estimates vary, but it's quite possible that by 1986 that 15 percent of today's workers will be replaced. Perhaps more.

By the way, programmers shouldn't be too smug; they will also become victims—only a bit later. Computer programming jobs will be eliminated in great quantities starting in the late 1980s. Self-programming, user-friendly computers will play their role in this "great extinction" of programmers, as will the shift to fabricating existing mainframe/minicomputer CPUs onto single chips. For example, what IBM recently did with its 370, and as Intel and Motorola are doing, will open up enormous software bases. Tons of low-cost IBM 370 programs exist; they will become accessible to the 32-bit μP users. This will accelerate as "TRS-370", 32-bit desktop computers become available in 1983. This, in turn, will decrease the need for programmers. The massive buildup of libraries and programs will also play its part. The analogy I use is that of U.S. railroad building: there was a limit to how much track was needed; once a certain point was reached, track-laying tapered off. This also occurred in U.S. highway building in the 1950s and 1960s.

Nothing can stop the revolution. In Europe, trade unions are trying to limit computers; some have formed groups. All such attempts are doomed. If any nation bans imports or creates barriers against more efficient nations, the less-efficient nation will suffer a lowered standard of living. The British motorbike industry is a good example. It fell victim to the more productive Japanese bike industry, which then proceeded to destroy the British industry by using superior technology and assembly plants. The Japanese, it might be noted, were pioneers in applying robots.

But we must not haphazardly remove workers and deposit them onto swelling unemployment and welfare rolls. If handled this way, the dangerous social situation that will emerge will create public outrage and a political backlash that could hinder our computer industry. Just as environmental regulations have strangled other industries, Federal regulations will be written and enforced to slow down the computer industry. These anti-computer regulations will come unless we take action now.

Rather than act when the deteriorating situation has antagonized U.S. society and labor unions, we must educate our leading lawmakers. What we need now are "early warnings" for workers whose jobs are in jeopardy. Some might suggest retraining. It's rubbish. Retraining for what? Jobs are already vanishing. Besides, after investigation and interviews with participants in existing retraining programs, my conclusion is that most retraining is a cruel joke. Retraining is a non-solution. "Work-sharing" with four-day workweeks is the only way out of this disaster.

Computers need not be job killers and ruin lives; if we, the IEEE, leading industry leaders and our lawmakers act soon, we may all benefit in the transition. Work sharing is needed, with same-salary, four-day workweeks. The alternative is frightening.

[From the Los Angeles Times]

NURSE SHORTAGE

(By Dave Norris, LVN)

Critical nurse shortage? You bet. Any nurse can tell you the real reasons:

1—Low pay.

2—No acknowledgement for the education required and the enormous job responsibilities.

Oh, there's plenty of nurses around, it's just that almost one-third of the nation's registered nurses are not working as nurses—mostly for the above reasons.

California hospitals are ignoring the real causes and are concentrating on "producing" more nurses by:

1—Giving money to nursing schools to increase the number of nurses educated.

2—Trying to pass a bill allowing foreign nurses to come to California and practice without having to take the state board exam.

So as a result, California will have many foreign nurses who cannot speak English adequately and nurses will continue to "burn out" and leave hospitals and nursing.

The very last place a nurse wants to go when she's sick is into the hospital. Take heed everyone, take heed.

[From the EE Times]

USING ENGINEERS

(By George Rostky)

We've been interviewing lots of engineers lately, hoping to find some who could learn to become editors and help us put out this paper. Naturally, the people who've been talking to us are engineers who haven't been thrilled with their present jobs.

Almost without exception, they found their job too narrow or too frustrating. They felt that a half-intelligent calculator with access to a good circuit-design handbook could replace them if it could learn to drink coffee with the other engineers and make conversation with customers and vendors.

One fellow wrote that he was part of a group of 25 engineers who did the work of three engineers and 22 clerks—or maybe 10 good clerks. His entire job, he said, consisted of revising and reviewing equipment specs and telling people in another group that it was okay to do repair work that they'd already done and for which they needed retroactive permission.

Now this man was with a very large, very successful company—one that could swallow the inefficiency. Could a smaller company survive it? Maybe.

We make pretty speeches to each other about the need to improve productivity. We talk of becoming more efficient, of making better use of our resources—our raw materials, our production-line workers, our clerical people. But when it comes to our most powerful tool for boosting efficiency—our engineers—we're sinfully wasteful.

Most of us were attracted to engineering by the excitement of stretching our minds. We loved the idea of confronting a problem and finding a clever way to lick it. But we didn't want to lick the same problem over and over again. And we didn't want to spend 10 percent of our time tackling problems and the rest of our time tackling paperwork.

How sad that almost all of us can look around and see things that are done badly because we've always done them that way, or because the government requires that they be done that way or because the boss wants it that way.

And how much sadder it is when we are the boss.

[From the Wall Street Journal]

"Labs deteriorated," says Stephen Kahne, an official of the National Science Foundation on leave from the engineering faculty of Case Western Reserve University. "That's the way college presidents balanced their budgets." Nationwide, it's estimated that $1.5 billion is needed to upgrade undergraduate facilities alone.

Graduate research at the frontier of technology may be in even worse shape. Delbert Tesar, the director of one of the nation's top robotics institutes, at the University of Florida, is developing robots with sensory powers. "Ultimately," he says, "we'd like to put a 'seeing,' 'feeling' robot between the surgeon and the surgical device that would make his motor capacity more precise." Such efforts, which are being pursued in the Soviet Union and Japan, would require some $10 million to $20 million in financing annually, however, Mr. Tesar's budget is $750,000.

A SURGE IN DEMAND

The gap between academic and industrial research and development widened as the U.S. pulled out of the 1973-75 recession and, predictably, the demand for engineers rose. In addition, the revolution in microelectronics made it possible to put computers in almost every sort of device, and "everybody started hiring engineers—even toy companies," notes Edward David, the president of research and engineering at Exxon Corp. Demand rose even further with the burgeoning of whole new industries, such as energy conservation and pollution control.

As demand climbed, so did salaries and then engineering enrollment. High-school students discovered "that's where the money is," as a Newton, Mass., high-school

administrator puts it. University faculties couldn't, or wouldn't, realign overnight. "You can't take a group of tenured poetry professors and turn them into engineers," Mr. Kahne of the National Science Foundation says.

Overall, the quality of graduates hasn't dropped noticeably, but many in industry and education are worried. At less prestigious schools, "quality is obviously suffering," says Paul Chung, the dean of the engineering college at the University of Illinois in Chicago.

In an effort to reduce the burden on the colleges, a broad segment of industry is increasing its support for education. And to encourage that trend, some engineering schools are putting new emphasis on the applied research that industry prefers to finance. "We need associations with companies to make sure our work is relevant to them," says George Low, the president of Rensselaer Polytechnic Institute, which has courted aid from roughly 100 corporate donors. Many companies are subsidizing faculty research or donating equipment. And Data General has set up a clearinghouse for company engineers who can serve as part-time faculty at local colleges.

CONVERTED MONASTERY

Other companies believe that they can't afford to wait until colleges catch up. Wang Laboratories Inc., another Massachusetts computer concern, bought an old monastery and converted it into a graduate school for training computer-software specialists.

Of course, the surge in engineering enrollment may produce a glut of engineers, at least in some fields, by the end of the decade. Government analysts say there won't be enough jobs to go around by 1990. "We're hesitant to add (engineering) faculty because these things are cyclical," says Gerald Lieberman, vice provost at Stanford University.

But industry officials remain concerned about the supply of talented engineers, particularly when they take a look at other industrial nations. In Japan and West Germany, about 15 percent of all degrees are in engineering, double the percentage here, although comparisons are difficult because fewer Japanese engineering graduates actually practice engineering. And although a National Science Foundation report issued last October predicted that the U.S. will have enough engineers, it expressed doubts about the training they will get. "There is a distinct possibility," the report says, "that university science facilities will lack the flexibility to pursue innovative research and instruction."

[From Digital Design]

TURNING OFF MOTIVATION

Dear Editor: Are aliens entering the U.S. at too high a rate to be properly assimilated? This may or may not be "real", but since EEs perceive it this way, this problem affects American views of FBEs. But companies improperly utilize EEs. Is the salary scale being depressed by the influx of aliens?

Engineers could be more effectively utilized if provided with better tools, and/or more support. Management prefers the brute force method: just hire more engineers. At current salaries and benefits, engineer vs. technician salaries may be too close to not want to hire an engineer for mostly technician work.

Once in the U.S., based on their technical skills, many FBEs migrate into management. Good technical people do not necessarily make good managers, and FBEs are at a disadvantage because of lessened communication ability and possibly different cultural backgrounds. We have some FBE managers here who are good for turning off employee motivation. However, FBE managers like to hire more people of their own background.

Name Withheld Upon Request, San Jose, CA.

AT YOUR EXPENSE

Dear Editor: FBE (foreign-born engineering) students come here for an education—mainly at our expense. We hope they return to their own country but most do not! Industry hires them at reduced wages so they may remain here. Working with many of them, I find them clannish, speaking their own languages and associating mostly with their own kind. It's unfair competition to us and our children. If a crisis situation develops, as it will likely within the next 2-3 years or less, where will their loyalty lie?

As for AAES, I have mixed feelings. Industry execs will dominate both organizations so the working engineer loses either way.

Name Withheld Upon Request, Milwaukee, WI.

[From Design News]

Engineering Salaries Trail Inflation

New York, N.Y.—Although median salaries paid to engineers increased 12 Percent over the past two years, and salaries paid to newly employed engineers—those working one year or less since graduation—increased 23 percent over the same period, the average rate of inflation was 25.8 percent during this time, resulting in a net loss of more than 13 percent of purchasing power.

The 1980 Engineering Salary Survey, conducted by the Engineering Manpower Commission of American Association of Enginnering Societies, Inc., concludes that "engineers receiving median increases are no longer able to maintain their standard of living since the return to double-digit inflation." the survey notes that the 13 percent drop in purchasing power does not take into account further erosion due to additional income tax liability resulting from higher income in inflated dollars.

The 1980 salary survey included 885 respondent organizations reporting salary rates of almost 136,000 engineers.

[From U.S. News & World Report Nov. 16]

Who Are the Unemployed?

GRASS-ROOTS SURVEY

Caught in the high tide of unemployment are an unusually large number of white-collar and highly skilled people, including an expanding number of managers and executives.

In some areas of the country, where specialized industries have been hard hit, people with highest skills and biggest salaries are being fired almost as fast as the least-skilled workers.

Even department heads and owners of defunct businesses are showing up in jobless-pay offices in increasing numbers, as the economic slowdown spreads.

Latest official statistics show this about the people who have lost jobs since the unemployment upsurge began in 1969:

Total unemployment held in October at 4.3 million, as announced november 6—the same as September, but 1.4 million higher than a year earlier.

Blue-collar workers seeking jobs increased to 72 percent above a year ago.

Business owners and managers thrown our of work also increased, to 64 percent above the 1969 level.

Professional and technical workers out of jobs are up 27 percent.

SCIENTISTS AND STOCKBROKERS

Scientists, in some places, are lining up be side tool and die makers and other skilled workers to collect benefits.

Corporate officers, stockbrokers, office managers, personnel specialists, clerks, typists, secretaries and many others are swelling the ranks of the unemployed in various parts of the country.

Some individuals making $15,000 to $30,000 or more a year with 20 years of experience in their jobs are looking for work. Employment agencies indicate some older, higher-paid people will find it hard adjusting to a new job—if one shows up at all.

An estimated 20,000 to 30,000 engineers are out of work in California.

Recent college graduates, in some areas, complain that they have been let go after a few months on the job. A Western university was picketed by about a dozen unemployed engineers when recruiters from the company they formerly worked for showed up seeking younger, lower-salaried engineers.

Many companies, while not firing anyone, are not filling vacancies when they occur. This means fewer job openings.

Larger numbers of hourly employes are taking home smaller paychecks as plants trim production, reduce shifts and eliminate overtime.

Some cities and towns are especially hard hit when companies that dominate the local economy either shut down entirely or lay off workers.

CHANGING PATTER

Reports from correspondents of "U.S. News & World Report" provide highlights of the present changing pattern of unemployment at the grass roots. What they found out by talking to businessmen, employers, employment agencies, State unemployment officials, other job specialists—

The aerospace and textile industries in the Southeast are rapidly laying off white-collar personnel, including supervisors and managers. This follows widespread layoffs of blue-collar workers.

As Government contractors at Cape Kennedy, Fla., see business dwindle, they are firing engineers, date processors, clerks, secretaries, guards and janitors. Some to-level engineers have found jobs, others have not. Three engineers hit by the cutbacks now run a service station in the Cape Kennedy area.

Some 1,800 engineering and administrative employes at General Electric's Daytona Beach, Fla., plant were laid off when the company cut back its work force on the Apollo moon program. Many of those fired found other jobs, however.

Nearly 25,000 textile workers are idle in Georgia and the Carolinas, according to both the American Textile Manufacturers Institute and State employment data. Most are blue-collar production workers and many are black.

FROM $27,000 TO—

Another victim of the business recession is the former manager of a closed textile mill in Augusta, Ga. He was earning $27,000 a year; now the best offer he has found pays $10,000.

Young stockbrokers in Atlanta have been quitting. Many have gone into other fields. Old-timers, hoping to survive the bear market, stay on, even with earnings as low as $300 a month.

Young secretaries and receptionists are having trouble finding jobs, said a Georgia Department of Labor official.

Senator SIMPSON. The next panel: Mr. S. K. Saxena, representing the Association of Indians in America; Joseph A. Cogo, national executive secretary of the American Committee on Italian Migration; Arnoldo Torres, executive director of LULAC, the League of the United Latin American Citizens; and Esther G. Kee, executive director of the United States-Asia Institute.

We appreciate having you here. Are we missing someone? Well, apparently, a couple of our witnesses have flown the coop.

Without further ado, let us go forward with your testimony first, Arnold, and then Mrs. Kee, please.

STATEMENT OF ARNOLDO S. TORRES, NATIONAL EXECUTIVE DIRECTOR, LEAGUE OF UNITED LATIN AMERICAN CITIZENS

Mr. TORRES. The oral presentation that I am about to deliver are the views and concerns of the League of United Latin American Citizens as well as the Mexican American Legal Defense and Educational Fund. They have asked me to provide a joint oral statement. Both organizations have submitted written testimonies for the record, representing their detailed perspectives on the preference system.

Senator SIMPSON. Without objection.

Mr. TORRES. Thank you.

For the record, I am Arnoldo S. Torres, the executive director of the League of United Latin American Citizens, the country's oldest and largest Hispanic organization.

Briefly, the major concerns that the Mexican American Legal Defense and Educational Fund and LULAC have with some of the proposals forwarded by the Select Commission with regard to reforming the preference system concern the need to deal immediately with some of the more pressing issues, such as the immigration

application backlogs. Regardless of all the controvery that exists in this debate of how many do we allow in legally under a numerical ceiling, there is one thing that we are all in agreement, and that is that we must deal with these backlog as soon as possible.

We would urge this committee to incorporate in its legislative package provisions to deal with the backlogs immediately. We feel that the present system which has created significant backlogs in the family categories, primarily 1, 2, 4, and 5, as opposed to the other preference categories, results in a situation where those coming in for employment be allowed to enter the United States before family reunification applicants.

In addition, we cite that oftentimes the backlog situation has created an additional stimulus for illegal immigration due to the fact that many of the family members waiting for visa numbers—have had to wait up to as many as 14 years, and a recent publication by U.S. News and World Report indicated that there were at three different regional INS offices at least a 7-year wait.

The other recommendation that we would submit to the subcommittee for its consideration would be to establish as a matter of policy a reasonable time period for which family member applicants could expect to be issued a visa number. Right now most people do not recognize or comprehend how long the wait is going to be, and thus significant problems are created.

With regards to the specific objectives that we would have under a new system for family reunification, we would agree to a great extent with what the Select Commission proposed, of creating family reunification as category 1. The exception is that we would include spouses of minor unmarried children of permanent resident aliens. We would then have the following preference group to take into consideration, brothers and sisters, unmarried sons and daughters, and married sons and daughters.

In addition, we would emphasize that the out-of-wedlock and parents of minor U.S. citizens should also be included in the preference categories because to omit them would be an obvious contradiction to the family reunification intent of the immigration policy of this country.

Furthermore, the discussion to eliminate the fifth preference, in our opinion, at this time is not a viable consideration. We would be interested in discussing it in the context of assessing perhaps giving it a lower preference designation in view of the success of the legalization program.

With regards to the independent immigrant category as proposed by the Select Commission, we do not have any specific problems as of yet with this proposal, but we are concerned that there not be the so-called "brain drain" of the underdeveloped and developing countries. It is important that we not encourage the highly trained or the professionals of these countries to emigrate to the United States. This would create serious problems for such countries for the necessary human resources required to assist in development would be nonexistent.

The suggestion for a 50,000 annual refugee category is suppported by us, but we would urge that there must be flexibility to adjust these numbers upwards without having it count against normal flows.

We would also be interested in discussing the concept of not having a per-country ceiling but having a national annual quota. And we have indicated this in our written testimony, we would go as far as to suggest a million a year. I know that you may cringe at this suggestion, Senator, since your figures are significantly lower.

With regards to labor market impacts of immigrants, it is our opinion that we must better study the specific influence new immigrants on our domestic examined labor market. We do not feel that this phenomenon has been properly examined, yet we are seriously concerned that decisions are being made based on superficial assessments and emotional reactions.

I would seriously doubt if we would find anything negative, but better yet it would be very important for us to actually understand the significance of impact, whatever it may be.

With regards to labor certification, we would support the suggestions by the Select Commission on expanding the labor market assessments of sufficient and insufficient labor supplies. But we feel very strongly that this expansion must be accompanied by better analysis of whether shortages are caused by employer manipulations or labor market dynamics.

The point system is something that we have very serious reservations about. I do not believe that at any time our organizations would be in support of a point system. We have serious problems with the practical implementation of that concept.

We would conclude by advocating for flexibility in whatever new system is developed. It is important that there be some mechanism that allows for ongoing analysis of the numbers of people that are coming into the country. Oftentimes preference for family reunification will change, and therefore adjustments must be made in our categories.

But we would caution this subcommittee when examining such a mechanism that it be sensitive and insure that it not be given or open to political manipulations and be based more on humane and family reunification purposes for any changes that it would propose.

That is our oral statement.

Senator SIMPSON. Thank you very much, Mr. Torres. It is always good for us to have your views. And you state them well.

[The prepared statements of Mr. Torres and of the Mexican American Legal Defense and Educational Fund follow:]

Prepared Statement of Arnoldo S. Torres

Good afternoon, Mr. Chairman, members of the Subcommittee on Immigration and Refugee Policy. My name is Arnoldo S. Torres, I am the National Executive Director of the League of United Latin American Citizens (LULAC), this country's oldest and largest Hispanic organization with over 100,000 members organized in 44 states. We very much appreciate the opportunity to come before you to share our views on changes to the immigration preference system.

We are all aware of the many complex controversies surrounding alterations in the categories of immigrants, commonly known as the preference system. Regardless of what our views may be we all are in agreement that family and non-family categories must be clarified. The Select Commission on Immigration and Refugee Policy found that the mixing of family and non-family groups had created confusion and inequity and that in order to correct this, these two would have to have separate immigration channels "...to enable U. S. immigration policy to serve and support the goals of family reunification and independent immigration in a more flexible and equitable manner than is possible under the current single-channel system."

A review of the current preference system reflects a significant backlog of immigration applicants. We have found that it is not uncommon to have some applicants waiting as long as 12 years. The news magazine, U. S. News and World Report found (in an April edition) that backlogs, in three regional offices of the Immigration and Naturalization Service (INS), often times were up to seven years with many applications being misplaced or lost.

The preference system establishes priorities on who shall be allowed to immigrate. Due to the major backlogs occuring in family member categories (1,2,4,5) we find that the practical impacts of this system allow those in a lower preference category (employment -- 3 and 6) to emigrate to the U. S. before family members. In addition, this situation has encouraged illegal immigration for family members who find the delay too difficult to continue and enter the U. S. illegally. We are unaware of the numbers however it has been the experience of our community. Unfortunately, we have found that this practical consequence of administrative breakdown has gone largely ignored.

Based on this situation we would recommend that remedial legislation be introduced and passed by Congress to clear up the existing backlogs. Also, we would urge that it be a matter of policy to establish

A REASONABLE TIME PERIOD FOR WHICH FAMILY MEMBER APPLICANTS COULD EXPECT TO WAIT TO BE ISSUED A VISA NUMBER.

IN CONSIDERING REFORM OF THE PRESENT PREFERENCE SYSTEM, WE WOULD BE MORE FAVORABLE TO SUPPORTING THE SELECT COMMISSION'S PROPOSED ADMISSIONS SYSTEMS (EXHIBIT 1) WITH SOME CHANGES. THE OBJECTIVES OF ANY NEW SYSTEM SHOULD BE TO GIVE THE REUNIFICATION OF THE IMMEDIATE FAMILY THE HIGHEST PRIORITY. THIS WOULD INCLUDE SPOUSES, UNMARRIED SONS AND DAUGHTERS AS FIRST PREFERENCE NOT SUBJECT TO QUOTA LIMITATION AS WELL AS SPOUSES AND UNMARRIED CHILDREN OF PERMANENT RESIDENTS.

THE FOLLOWING PREFERENCE GROUP SHOULD THAN FOLLOW WITH A NUMERICAL CEILING. THERE WOULD BE NO DEVIATION FROM THESE PREFERENCES WHICH WOULD CONSIST OF (A) BROTHER AND SISTERS OF U. S. CITIZENS AND PERMANENT RESIDENT ALIENS, (B) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS, (C) MARRIED SONS AND DAUGHTERS (SPOUSES) AND MINOR CHILDREN OF U. S. CITIZENS. WE WOULD EMPHASIZE THAT OUT-OF-WEDLOCK AND PARENTS OF MINOR U. S. CITIZENS ALSO BE INCLUDED IN THE PREFERENCE CATEGORIES FOR TO OMIT THEM WOULD BE AN OBVIOUS CONTRADICTION OF THE FAMILY REUNIFICATION INTENT OF U. S. IMMIGRATION POLICY.

WE VIEW ELIMINATION OF THE PRESENT 5TH PREFERENCE (MARRIED SONS AND DAUGHTERS OF U. S. CITIZENS)NOT A VIABLE CONSIDERATION AT THIS TIME. HOWEVER, WE WOULD SERIOUSLY CONSIDER ITS HAVING A LOWER PREFERENCE AFTER BETTER ASSESSING THE POTENTIAL SUCCESS OF A LEGALIZATION PROGRAM. WITH REGARDS TO THE PROPOSED INDEPENDENT IMMIGRANT CATEGORY, WE ARE CONCERNED WITH THOSE PROBLEMS WHICH WOULD BE CREATED FOR SENDING UNDERDEVELOPED AND/OR DEVELOPING COUNTRIES, BY ENCOURAGING THEIR HIGHLY TRAINED OR PROFESSIONALS TO EMIGRATE TO THE U. S. WE MUST PROCEED CAREFULLY WITH ATTENTION GIVEN TO THIS CONCERN BY SUCH COUNTRIES. WE MUST NOT TAKE AWAY THAT RESOURCE WHICH IS SO COVETED BY THESE GOVERNMENTS ATTEMPTING TO REMEDY THEIR PROBLEMS. WE WOULD FURTHER SUPPORT A REFUGEE CATEGORY OF 50,000 ANNUALLY WITH THE FLEXIBILITY TO ADJUST THE NUMBER UPWARDS WITHOUT HAVING IT COUNT AGAINST NORMAL FLOWS. IN ADDITION, WE WOULD BE INTERESTED IN DISCUSSING THE CONCEPT OF NOT HAVING PER COUNTRY CEILINGS AND IN ITS PLACE A NATIONAL ANNUAL QUOTA FOR LEGAL IMMIGRATION.

ECONOMISTS AND LABOR UNION REPRESENTATIVES WHO HAVE FOLLOWED THIS IMMIGRATION DEBATE HAVE INDICATED THEIR STRONG RESERVATIONS AS TO THE IMPACT IMMIGRANTS AND UNDOCUMENTED WORKERS HAVE ON THE U. S. LABOR MARKET. WE SHARE SOME OF THAT CONCERN BUT WE WOULD CAUTION THAT NO SUBSTANTIVE ACTIONS TAKE PLACE BASED ON EXTREMELY LIMITED DATA ASSESSING THIS IMPACT. WE WOULD RECOMMEND THAT WE BEGIN TO BETTER ANALYZE THE EFFECTS OF LEGAL

EXHIBIT I

PROPOSED IMMIGRATION ADMISSIONS SYSTEM

CATEGORY I FAMILY REUNIFICATION		CATEGORY II INDEPENDENT IMMIGRATION		
Immediate Relatives of U.S. Citizens*	Other Close Relatives#	Special Immigrants*	Immigrants with Special Qualifications*	Other Independent Immigrants#
• Spouses • Unmarried sons and daughters • Parents of adult U.S. citizens • Grandparents of adult U.S. citizens	Group I* • Spouses, minor unmarried children of permanent resident aliens Group II# • Adult unmarried sons and daughters of permanent resident aliens • Married sons and daughters of U.S. citizens • Brother and sisters of adult U.S. citizens • Parents (over age 60 whose children all live in the United States) of permanent resident aliens	• Persons who lost U.S. citizenship • Ministers of religion • Former employees of U.S government	• Immigrants of exceptional merit • Investors	• Other qualified immigrants

* No per-country ceilings applied.
/ Unused visa numbers may be used in the highest category with unmet demand
Per-country ceilings applied.

IMMIGRANTS AND UNDOCUMENTED WORKERS ON THE U. S. ECONOMY, TO ASSESS HOW BEST TO PLAN FOR SUCH EFFECTS AND PREPARE A PLAN TO ADDRESS WHATEVER ISSUES MAY ARISE. HOWEVER, IN THE AREA OF LABOR CERTIFICATION WE WOULD OPPOSE ANY RELAXATION OF THE STANDARDS UTILIZED TO INSURE THAT DOMESTIC LABOR IS NOT ADVERSELY AFFECTED. WE WOULD SUPPORT EFFORTS TO STREAMLINE THE PROCESS SO AS TO REMOVE UNNECESSARY AND CUMBERSOME PROCEDURES, REDUCE FRAUD, AND EXCESSIVE COSTS. A VALID JOB OFFER OR OPPORTUNITIES FOR EMPLOYMENT SHOULD BE RETAINED. A KEY IMPROVEMENT IN THE LABOR CERTIFICATION PROCESS WOULD BE EXPANSION OF THE LABOR MARKET ASSESSMENTS OF SUFFICIENT AND INSUFFICIENT LABOR SUPPLIES. ALSO, THIS EXPANSION MUST BE ACCOMPANIED BY A BETTER ANALYSIS OF WHETHER SHORTAGES ARE CAUSED BY EMPLOYER MANIPULATIONS OR LABOR MARKET DYNAMICS.

IT HAS BEEN SUGGESTED THROUGHOUT THIS DEBATE PROCESS THAT WE GIVE THOUGHT TO UTILIZING A POINT SYSTEM FOR DETERMINING WHO SHOULD BE GIVEN PRIORITY TO ENTER THE COUNTRY UNDER THE INDEPENDENT CATEGORY. PRESENTLY, WE WOULD OPPOSE ANY PROPOSAL OF THIS NATURE FOR WE VIEW IT AS A CONTRADICTION TO THE SPIRIT OF U. S. IMMIGRATION HISTORY WHICH IS BASED ON THE CONCEPT OF OPPORTUNITY AND HUMANENESS. A POINT SYSTEM WOULD DISCRIMINATE AGAINST THOSE AT THE LOWER END OF THE SOCIO-ECONOMIC SCALE, MANY OF WHICH ARE RESPONSIBLE FOR THE GREATNESS OF THIS COUNTRY. WE FEEL A POINT SYSTEM WOULD RESULT IN DISCRIMINATION AGAINST PEOPLE OF COLOR WHILE FAVORING THE ANGLO-SAXON OF EUROPE.

IN CLOSING, IT IS IMPERATIVE THAT WE HAVE A FLEXIBLE PREFERENCE SYSTEM WHICH CAN BE ADJUSTED WHEN NECESSARY. SUCH ALTERATIONS WOULD AND SHOULD COME ABOUT FROM IMMIGRANT FLOWS DUE TO WORLD AND HEMISPHERIC CONDITIONS. A MECHANISM INVOLVING CONGRESS AND THE EXECUTIVE BRANCH SHOULD BE ESTABLISHED WHICH WOULD ALLOW ON-GOING ANALYSIS OF POPULATION MOVEMENTS AND PERIODIC ASSESSMENTS OF U. S. POLICY TO ADDRESS SUCH OCCURENCES. WE WOULD EMPHASIZE THAT ANY CHANGES SHOULD BE BASED ON THE MERITS OF THE CIRCUMSTANCES AND NOT ON POLITICAL MOTIVATIONS. THUS, THE DESIGN OF SUCH A MECHANISM IS EXTREMELY IMPORTANT AND ITS INTEGRITY MUST BE PROTECTED.

THANK YOU.

TESTIMONY OF
THE MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND

This written testimony is submitted on behalf of the Mexican American Legal Defense and Educational Fund. MALDEF is a national civil rights organization dedicated to the preservation and vindication of the civil and constitutional rights of close to 15 million Americans of Hispanic descent. Currently, we have offices in San Francisco, Los Angeles, San Antonio, Denver, Chicago and Washington, D. C. For the past several years much of our attention has been focused on immigration matters and thus we are keenly aware of the significance of the issue before the Subcommittee today. We are grateful for this opportunity to continue our dialogue with this Subcommittee. Today's testimony will concentrate on the issue of immigration and the preference system.

Historically, persons have immigrated to the United States for three main reasons: to join relatives already here; to find work and a better way of life; and to escape political or religious persecution. In formulating U.S. immigration policies, efforts have been made to accommodate these considerations within the boundaries of our national interest.

WHO SHOULD ENTER THE U.S.?

In determining who should enter the United States, one of the major themes underlying American immigration poplicy has been family reunification. Under this policy, immediate family numbers are given preference for immigrant visas by being exempted from numerical limitations (in the case of spouses, minor children and parents of adult U.S. citizens) or by receiving a fixed number of visas for other close family members.

Under present law, there is a worldwide limit of 270,000 persons who can annually migrate to the United States as permanent residents.[1] Each independent country is allocated a maximum of 20,000 immigrant visas per year.[2] Within this system of numerical limitations,

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[1] Section 201(a) of the Immigration and Nationality Act (hereinafter referred to as the INA) and 8 USC Section 1151.

[2] Section 202(a) of the INA and 8 USC Section 1152.

applicants are put into certain preference categories, depending upon their relationship to the petitioning relative or their job skills.[3]

In several ways, the current preference system falls short of its professed goals. The principal shortcoming lies in its lack of flexibility. The categories are rigid and exclude certain immigrants with legitimate familial basis to enter the country, such as parents of lawful permanent residents or sole dependents of U.S. citizens who are close but not immediate relatives. Furthermore, the combination of a worldwide quota, per country ceilings and percentage limitations within each preference category create an anomalous situation where close family members wait for several years before a visa becomes available, while persons with no family ties but possessing certain employment skills enter expeditiously. A commonly cited example is the specialty cook who can immigrate to the U.S. under the sixth preference labor certification process in as little as 1 and 1/2 years, while the spouse of a lawful permanent resident alien from Mexico may wait as long as 10 years.

Another serious problem lies with the per country ceiling of 20,000 itself. It is an arbitrary figure which bears no relation to the worldwide distribution of population or the varying patterns

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[3]The 270,000 numerically limited immigrants are broken down into the following categories:

Preference	Groups Include	Percentage and Number of Visas
First	Unmarried sons and daughters of U.S. citizens and their children	20% or 54,000
Second	Spouses and unmarried sons and daughters of permanent resident aliens	26% or 70,000*
Third	Members of the professions of exceptional ability and their spouses and children	10% or 27,000
Fourth	Married sons and daughters of U.S. citizens, their spouses and children	10% or 27,000*
Fifth	Brothers and sisters of U.S. citizens (at least 21 years of age) and their spouses and children	24% or 64,800*
Sixth	Workers in skilled or unskilled occupations in which U.S. workers are in short supply, their spouses and children	10% or 27,000
Non-preference	Other qualified applicants	Any number not used above*

* Numbers not used in higher preference may be used in these categories.

of immigration. It has had an especially disastrous effect on Mexico. Prior to the 1976 amendments to the Immigration and Nationality Act, there was no fixed limitation on the number of immigrant visas issued to nationals of Western Hemisphere countries. In that period, Mexico was immigrating between 40,000 and 50,000 persons each year.[4] But with the imposition of the 20,000 per country ceiling in 1976, the quota restriction has virtually halted the immigration of thousands of applicants. Currently, there is a nine-year waiting period for spouses of lawful resident aliens from Mexico and backlogs of 3 to 4 years for siblings and other close relatives.[5] Wayne Cornelius, professor of political science and Director of the Program in US-Mexican Studies at the University of California at San Diego, estimates that as of January 1, 1981, there is an overall backlog of 380,191 immigrant visa applications pending from Mexico.[6]

The fact that the existing preference system reflects both family reunification and economic needs produces confusing--and often conflicting--results. To ameliorate these problems, MALDEF suggests that Congress consider our recommendations for altering the selection process.

MALDEF firmly believes that family reunification should remain the principal bulwark behind our national immigration policy; U.S. citizens and permanent residents should not have to exile themselves in order to be with members of their families. To assure the implementation of this goal, we can maintain the current preference system in some form, but remove or adjust the per country ceiling to eliminate the backlog of applications that now exist from oversubscribed countries, such as China, South Korea, Mexico and the Phillipines and to align the system more closely with the reality of worldwide immigration patterns. The Administration has in part addressed this concern by proposing to increase the worldwide quota from 270,000

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[4]See, for example, Table 6 of the 1976 Annual Report of the Immigration and Naturalization Service. During fiscal year 1975, about 42,000 Mexican nationals immigrated to the U.S.

5. Interpreter Releases, Vol. 58, No. 40 (Oct. 17, '81)

[6]Wayne A. Cornelius, "The Reagan Administration Proposals for a new U.S. Immigration Policy: An Assessment of Potential Effects," International Migration Review (Staten Island, N.Y.), Fall, 1981.

to 310,000 and to augment Canada and Mexico's ceilings by an additional 20,000 visas per country. These recommendations are to be commended. However, they do not solve the problem of backlogged applications. Thus, Congress should seriously consider special legislation to expedite the processing of those visa applicants who are awaiting admission.[7]

Another proposal which Congress should consider is the creation of separate categories within the existing preference system: Category I (family reunification); Category II (independent immigrants); Category III (refugees). Each of the three categories would be subdivided into groups, and each category would have a limited numerical ceiling (immediate relatives within Category I would remain unlimited). Under the family reunification category, preference could be determined by order of kinship, with the guiding principle that nuclear families be left intact. There has been some dispute over the meaning of "nuclear family," and certain organizations have argued for the eliminating of the existing 5th preference for brothers and sisters of adult U.S. citizens. They contend that the sibling relationship is not as great as that of spouses and their children; they further argue that this category creates an exponential growth in visa applications when spouses of the siblings later try to bring in their own relatives.

MALDEF does not find these arguments credible. In many cultures--Asian, Latin, European, etc--the concept of the family extends beyond the parent-child relationship. On the contrary, it is not unusual to find living in the same household grandparents, siblings (and their own families), aunts and uncles and even adopted relatives. Even if the family members were not in close geographical proximity to each other, this does not mean that the bond of kinship is lacking. As Professor Charles B. Keeley of the Population Council's Center for Political Studies indicated, the key issue in defining a family is:

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[7]The Select Commission on Immigration and Refugee Policy has suggested an alternative of admitting 100,000 applicants per year over a 5-year period in order to eliminate the backlog. Staff Report of the Select Commission on Immigration and Refugee Policy, U.S. Immigration Policy and the National Interest (April 30, 1981). pp. 426-427.

> "...readiness--readiness to be and to do what a father or mother does for a child or a brother or sister do. Bringing a family to America unites us all as a people with bonds across the whole expanse of the country, uniting states and regions as well as knitting together cities and neighborhoods. (Thus), a family bond is not measured by miles but by readiness to be and do for family."7a

As a pluralistic society, the United States should recognize this cultural diversity in defining family relationships by retaining, rather than eliminating, the preference category for brothers and sisters of U.S. citizens.

The idea that married siblings are somehow less close and less important to the family unit is a concept which is unproved and not founded on any rational research or study. Congress itself has long recognized the importance of extending immigration privileges to brothers and sisters of U.S. citizens. In Section 2(d) of the First Quota Act of May 19, 1921 (42 Stat.5), it was stipulated that "preference shall be given as far as possible to wives, parents, brothers, sisters, and children under eighteen years" of U.S. citizens and applicants for citizenship. This preferential selection of siblings was continued in the Immigration and Nationality Act of 1952 and extended in the Immigration Reform Act of 1965. In 1976, when Congress was amending various sections of the Act, it rejected an earlier draft of a bill to eliminate the 5th preference category for married siblings. Instead, it merely amended that section to require that the petitioning U.S. citizen sibling be 21 years of age. This consistent, six-decade recognition by Congress of the importance of brothers and sisters in the family structure only affirms their preferential status. Such legislation, in light of this history, should therefore be kept intact.

WHAT ADMISSION STANDARDS SHOULD APPLY?

Aside from the question of who should enter the U.S., there is an additional issue of the selection criteria to be used beyond that of family relationship.

One recommendation has been to adopt a point system similar to that outlined by Canada. Under this system, a person desiring to immigrate would be measured against specific criteria, which reflect

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7a Testimony of Charles B. Keeley before the Select Commission on Immigration and Refugee Policy, January 21, 1980.

the goals and priorities of the recipient country. Factors such as education, age, competence in the English language, occupation, occupational demand and intended place of residence are taken into consideration. Each criterion is assigned a certain number of points,according to their desirability. The applicant must then amass a minimum number of points in order to qualify for admission.

An analysis of the Canadian point system raises a number of questions concerning their applicability to the United States immigration system. As the Select Commission aptly pointed out, there are some critical differences between Canada and the United States.[8] First, immigration has a proportionately greater impact on Canada than on the U.S. It is estimated that Canada's target of 100,000 immigrant admissions per year is tantamount of an annual admission policy of 1 million in the U.S. Because the effect is so much greater on Canada, it is more important to control the demographic, labor market and social impact of immigration in that country. Secondly, Canada has fewer--and smaller--urban concentrations than the U.S. Consequently, the local effects of immigration are greater and require the use of selective criteria to minimize the problems that may develop. Another difference between the two systems is that Canada actively seeks to reach its maximum goal of immigrant admissions. To achieve the target of 100,000, Canada may change the emphasis of its selection criteria, so that more people may qualify. This situation does not exist in the U.S. As a matter of fact, the U.S. satisfies only a fraction of the legal immigration demand within its ceilings. Finally, one other critical difference is that the parliamentary form of government in Canada facilitates administrative flexibility in the use of the point system to meet changing needs and goals. Such administrative flexibility is virtually unknown in the present U.S. immigration system. Because the point system concurrently serves many policy interests, it must be flexible enough to adapt to changing conditions. For example, if there is a labor shortage, then more points should be given to occupational criteria. If, on the other hand, there is a high unemployment rate, then emphasis may be shifted to attract

[8] Staff Report of the Select Commission, ibid., pp. 402-404.

other types of immigrants, such as business investors. For the United States to implement such a point system, it could very well mean a greater proliferation of regulations, as well as more administrative bureaucracy. At minimum, it would require the establishment of a special body to recommend specific criteria, to propose changes and to monitor the overall operations of the point system.

Other criticisms of this proposal lie in the choice of criteria and the weight to be accorded each factor. For instance, English language competency will clearly discriminate against applicants from countries where English is not the spoken language. Persons from Asia, Latin America and Africa will have more difficulties immigrating than those from England, Australia or Canada. Other criteria which appear neutral on their face may be discriminatory in their application. Education is one illustration. If the United States sets a standard of secondary education (12 years of compulsory education) as a minimum requirement, then a Mexican national with 6 years of schooling would not receive any points under the proposed system--despite the fact that under the Mexican educational system, 6 years of schooling is equivalent to 12 years of compulsory education in the U.S. Thus, a significant weakness in the point system becomes apparent--its inability to recognize variations in the educational systems of different countries.

Furthermore, criteria such as "personal suitability," adaptability, responsiveness, etc., are highly subjective and almost impossible to quantify. The scope of this kind of subjective assessment increases as the criteria multiply. Finally, in in attempting to control the demographic impact of immigration, it would be unreasonable to expect that a person will remain in the same job or in the same location as stated in his application. Constitutional conflicts are likely to arise if the law required recent immigrants to remain in one city or stay in a particular occupation, while the mobility of the rest of society goes unrestricted.

Given the problems posed by this selection method, MALDEF has serious reservations concerning its applicability to the U.S. Before any conclusion is drawn on its appropriateness, a more detailed study should be undertaken.

In conclusion, MALDEF strongly believes that family reunification should remain the foundation of this country's immigration policy. We support the retentionof a preference system, but believe that the Congress should consider creating separate categories within the system so that persons seeking to enter for family reunification would not have to compete for visas with those seeking to enter for other purposes. MALDEF supports an increase of the worldwide immigration ceiling to at least 310,000, with expansion of the visa allotments to Mexico and Canada. In addition to these measures, we feel it is necessary for the Congress to consider legislation to address the problem of visa issuance backlogs.

MALDEF opposes proposals to eliminate the fifth preference for siblings of adult U.S. citizens. We also have very strong reservations about the adoption of a point system similar to that utilized by Canada for determining admission.

We appreciate this opportunity to share our views with the members of this subcommittee. We look forward to discussing our proposals with you in greater detail and would be happy to respond in writing to any questions you may pose.

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Senator SIMPSON Is it Mrs. Kee or Ms. Kee?
Mrs. KEE. Mrs. Kee.
Senator SIMPSON. Mrs. Kee, please.

STATEMENT OF ESTHER G. KEE, EXECUTIVE DIRECTOR, US-ASIA INSTITUTE

Mrs. KEE. Thank you, Mr. Chairman.

I am very sorry that the task force of the U.S. Immigration and Refugee Policy for the United States-Asia Institute cannot be here with us today. The members have been out of the country, and so therefore if you will bear with me I will proceed with our perspective and try to convey their feeling of their findings for the different questions that are before this committee.

On the question of the fifth preference, whether it should be eliminated, we feel very strongly that the fifth preference should not be eliminated. Asians consider brothers and sisters to be an integral part of the nuclear family. In using the word "nuclear," we are attempting to describe the closeness of the relationship which is felt. The Asian thinks of their extended family as being just as important and as close to them as Americans think of the nuclear family in the dictionary sense.

Although U.S. immigration policy must assuredly be premised on the U.S. custom and mores, it is incumbent for the United States to recognize the deep-rooted cultural mores. This is particularly important when we are dealing with the immigration policy.

In regards to whether the proportion of the immigration visas available for labor markets should be increased or not, it is the recommendation of the United States-Asia Institute that the immigration visa available for the labor market be increased.

Next, as to whether the labor certification requirement should be modified, except for the backlog of the labor certification visa pending before the Department of Labor, the Institute believes in the integrity and the basic procedural foundation of the labor certification process as constituted.

We suggest, however, that schedule A be the Department of Labor blanket classification for occupations deemed in short supply and exempt from the labor certification process be expanded. This will alleviate some of the workload of the Labor Department.

The use of the point system for selecting immigration is not desirable, because of the tendency for such a method to favor the wealthy, the privileged from the industrialized countries. A point system must be based upon assignment of value on either subjective or objective grounds. On the subjective basis, we can invite corruption. And, of course, it is against our laws, American laws and traditions.

The objective criteria would measure characteristics which are either immutable, such as sex, race, age, or relatives who are already U.S. citizens or residents, or are subject to alteration. Thus, it appears that a point system will involve personal characteristics which are subject to alteration.

This view is supported by the criteria used by the Canadian and Australian point systems, as well as the work of the Select Commission on Immigration and Refugee Policy, the staff, which has

analyzed and discussed the point system based primarily on alterable characteristics.

The chairman of this subcommittee, Mr. Simpson, stated in the final report of the Select Commission on Immigration and Refugee Policy in March 1981 that the independent category should be selected by a simplified version of the point system used by Canada and Australia. Points could be given to traits valuable to the economy or culture, such as vocational preparation, experience, and achievement, a job offer, designated occupation, and possibly the intention to invest, and those which would ease assimilation, such as English language ability and education.

It is evident that this kind of bias which a point system will emphasize in our immigration policy in favor of high education, English language skill, certain occupational experience, and wealth would enable primarily the elite in the highly developed countries to qualify as immigrants. This we oppose.

In closing, we note that this proposal is made at a time when Pacific Asian families are in a process of accomplishing the unification of their families which have been kept apart by the racist immigration policy of the United States for a better part of a century.

The cutting short of this long overdue unification by eliminating the fifth preference and instituting a point system is an attack upon the interests of Pacific Asians in America, many of whom have fought long and hard for equality and justice for themselves and for all Americans.

Thank you very much.

[The prepared statement of Mrs. Kee follows:]

PREPARED STATEMENT OF ESTHER G. KEE*

Ladies and Gentlemen, it is a pleasure for me to testify before you today on behalf of the US-Asia Institute and the Asian American community. Since time is short, let me proceed with our perspective.

First, on the question of whether the 5th Preference should be eliminated. The 5th preference should not be eliminated. Asians consider brothers and sisters to be an integral part of the nuclear family. In using the term "nuclear", we are attempting to describe the closeness of the relationship which is felt. Asians think of the extended family as being just as important and as close to them, as Americans think of the nuclear family in the dictionary sense.

Although U.S. immigration policy must assuredly be premised on U.S. customs and mores, it is still incumbent for the U.S. to recognize deep-rooted cultural mores. This is particularly important when dealing with immigration policy.

When an immigrant comes to the U.S., he or she is often faced with cultural trauma. He must learn a new language, often times a new profession; and he must adjust to a new, faster, more sophisticated culture. This adjustment takes a toll on the individual.

Thus, the larger the individuals intimate circle, the greater support this individual has in attempting to cope with his new environment. The extended family is extremely important in this respect. Brothers, sisters, cousins, grandparents all form a cohesive group which shares language, culture, and religion.

Undoubtedly, once immigrants have resided in the U.S. for a period of time (5-10 years) they adopt the mores of the U.S. However, it is the first five to ten years which are crucial to the individuals' reestablishment in the U.S. This is when he must rely on family. This is when he must feel his newly chosen country is sympathetic. This is when he must believe that his loved ones will one day be with him.

In regards to whether the proportion of immigrant visas available for labor market should be increased or not, it is the recommendation of the US-Asia Institute that immigration visas available for the labor market be increased. We, however, do not feel that visa allocation or relative cases should be decreased.

The Department of Labor has clearly shown that there exists many occupations, and in many areas of this country, numerous shortages of American labor. To argue that workers from other countries take jobs away from American workers is to a great degree unfounded and unsubstantiated. Surely, in many depressed areas, jobs are in short supply. One cannot argue, however, that the reason for the short supply in those limited areas are the result of the illegal workers. Scape goat arguments of this type are without justification or reason, and display an ignorance and narrowness which we believe is frightening. To tell unemployed Americans in depressed areas that the reason they cannot find a job is because "illegals" have taken it away from them is the height of subterfuge and does not address the real problems confronting barrios and ghettos in this country. Included within the parameters of the labor market, the US-Asia Institute recommends that a further classification be available for investors. We urge that immigrants who are able to invest $100,000 into an enterprise in the U.S. and hire a minimum of two U.S. citizens or lawful permanent residents be granted a non-immigrant "M" visa, and thereafter be allowed to file for lawful permanent residence. This would assure that marginal business investments would be eliminated from consideration, thus ensuring the integrity of the immigration system. By allowing investment as an avenue for lawful permanent residence, this would create additional new jobs for many Americans.

Individuals immigrating to the United States via the labor certification process contribute greatly to this country's economy. They come with needed and marketable job skills gained in past job experiences and/or academic qualifications. The positions these individuals fill in the United States have already been determined to be in short supply in this country.

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*Testimony prepared with the assistance of Dennis Mukai, Esq. and L. Thomas Surh, Esq., Members of the US-Asia Institute Task Force on Immigration and Refugee Policy.

Next, as to whether labor certification requirements should be modified: except for the backlog of labor certification visas pending before the Department of Labor, the US-Asia Institute believes in the integrity and basic procedural foundation of the labor certification process as constituted.

We suggest, however, that Schedule A be the Department of Labor blanket classification for occupations deemed in short supply and exempt from the labor certification process be expanded. This would alleviate some of the workload from the Labor Department.

The US-Asia Institute further recommends that although opposed to employer sanctions, should they nonetheless be instituted, certain conditions much be attached. We therefore recommend that once an employer files a labor certification for an employee or prospective employee, the employer would not be subject to employer sanctions. This condition is found in that the employer upon filing for his employee, has commenced a legal process, which will ultimately result in an approval or a denial. Should the case be approved, the employer has filled a position which was in short supply. Should the case be denied, the employer has failed to prove the unavailability of American workers and the employee would be forced to vacate his position and depart the United States.

A waiver of employer sanctions for those companies who file labor certifications would serve an additional benefit to the Government in that the employers filing for labor certifications would serve as registration of undocumented workers that would otherwise remain in the large underground pool of individuals that unscrupulous employers prey upon.

The US-Asia Institute also recommends that employer sanctions if instituted, subject only those employers who have in their employment at least four undocumented workers.

The use of any point system for selecting immigrants is not desirable because of the inevitable tendency for such a method to favor the wealthy and privileged from industrializing countries. Such a favoritism would result in a sharp break with the view that all men are created equal, and with the longstanding tradition that the United States is a land of opportunity to begin a new life for the "tired...poor...huddled masses yearning to breathe free."

A point system must be based upon assignments of value on either subjective or objective grounds. Emphasis on subjective bases would invite corruption and arbitrariness which is repugnant to American law and tradition. Objective criteria must measure characteristics which are either immutable (sex, race, age, or relatives who are already U.S. citizens or residents) or are subject to alteration.

To base a system on immutable characteristics would for the most part involve biases which are no longer acceptable in America where we have fought long and hard to eliminate racism, sexism, and to some degree, discrimination based on age, from public life.

With regards to the existence of relatives who are U.S. citizens or residents, it is assumed that the point system is being examined as an alternative to the existing relatives preference system, so relative status does not appear to be a criterion relevant to this discussion.

Thus, it appears that a point system would involve personal characteristics which are subject to alteration. This view is supported by the criteria used by the Canadian and Australian point systems, as well as by the work of the Select Commission on Immigration and Refugee Policy*, the staff of which analyzed and discussed the point system based primarily on alterable characteristics. The Chairman of this Subcommittee, Senator Alan Simpson, stated in the Final Report of the Select Commission on Immigration and Refugee Policy, March 1981:

> "The 'independent' category should be selected by a simplified version of the 'point' system used by Canada and Australia. Points could be given for traits valuable to the economy or culture (such as vocational preparation,

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*The Select Commission considered and rejected the use of a point system by a vote of 14 to 2.

experience and achievement; a job offer, designated occupation; and possibly the intention to invest); and those which would ease assimilation (such as English language ability and education)."

It is evident that the kinds of biases which a point system would emphasize in our immigration policy--in favor of high education, English language skills, certain occupations and experience, and welath--would enable primarily the elite in highly developed countries to qualify as immigrants. This we oppose.

In closing, we note that this proposal is made at a time when Pacific/Asian families are in the process of accomplishing the unification of their families which had been kept apart by the racist immigration policies of the United States for the better part of a century. The cutting short of this long overdue unification by eliminating the fifth preference and instituting a point system is an attack upon the interests of Pacific/Asians in America, many of whom have fought long and hard for equality and justice for themselves and for all Americans.

Thank you!

Senator SIMPSON. Well, I thank you, Mrs. Kee.

The definition of the nuclear family is very perplexing to us. I guess an American dictionary definition of nuclear family would be a self-contained family unit consisting of a mother and a father and their minnor children, or a married couple and their dependent minor children, all of whom live together as a unit.

As you so ably stated, Asians view this issue differently. As we listened to the testimony here over many weeks and in the Select Commission too, the issue seems to come down to should not our U.S. immigration law be based on the customs and values of the American people rather than on those of other nations?

That is not said to bait the issue or anything else. There have been hypothetical presentations to us that if another country had a definition that all relatives who lived together and are considered equally close, regardless of their degree of consanguinity—was that the old phrase they used to dazzle us with in law school?—in other words regardless of the degree of their blood relationship, would all be grouped together and that there would be an equal feeling of closeness.

Where are we when U.S. policy is expected to reflect that by permitting all of those relatives that might be defined in that country's vocabulary to be admitted to the United States as soon as a person is naturalized? Where are we? That is a perplexing thing for us.

Mrs. KEE. Well, I think we are trying to refer to as married brothers and sisters of the fifth preference, that they not be eliminated. I think it would be very sad if we sat here and said just because I got married I no longer belong as a family member. I think we have to be very honest with ourselves and think very deeply who are we, what we would like to embrace as our family.

And I think maybe I am just trying to say that because in this country and because we are so spread apart and maybe because we are so busy making money and surviving, that maybe there is a tendency of generation after generation that when you are married you are no longer a part of the family. And I think that is a very sad state, while in the Asian countries or wherever, I think we all like to embrace brother siblings, whether they are married or un-

married, and be considered as a family, a part of the family. And I think that is what I am trying to say here.

And I think that if we cannot deal with the fifth preference including brother and sister, whether they are married or unmarried, whether they are divorced, and they are not part of the family, I think that is, you know, something that we should think really deeply about it. And I would really like to see that there would be a very deep thought given to the fifth preference and include the married brothers and sisters.

Senator SIMPSON. All right. I think that your testimony and Mr. Torres' remarks and the remarks that were presented in writing by the other two witnesses all seem to advocate that the fifth preference should be continued, rather than reallocating some of those numbers to an independent type of category.

The question has come up in other hearings as to what is in the best interests of the American people. Would not immigrants selected on the basis of their individual characteristics and talents, including their favorable impact upon the economy, might they not be more in the best interest of the American people as a whole, in contrast to the interest of the relatively few Americans who would be able to bring in their relatives? That has come up in the hearings. What is your comment on that?

Mrs. KEE. Well, I would like to make a comment that in New York City alone, a couple of years ago, during the time when they were having a problem of going into bankruptcy or not, there were facts shown that the Asian community took care of its own. The Asian community helped the city pull out of the bankruptcy because they were one of the few communities that were viable. They had paid in the Chinatown area alone, the real estate taxes were so high because all the Asian community wanted to be in that area, that they put a very high real estate tax in that area on properties, because everyone wanted to live there.

And then the Asian community importers and exporters did not once have any problem with the economy, so they were able to pay taxes and support the city. I think this came up during one of the meetings with the mayor. And regardless of whether we are families, I think families had a lot to do with it, because the mom-and-pop stores, they all worked very hard and were good citizens.

So I think things like this do not come out in the facts and figures in the national scene, because you find that the Asian community, whether they are located in New York or California or Illinois, so when you take an overall picture of where the Asians are and what they have done for the country, it is only in spots of these cities. And I can really feel that even in the Korean American community, the new pop-and-mom stores that are coming up, the families are working it, and they are doing very well. And they have not been a burden on the State or the city.

And you look at the welfare rolls, you do not see that in the New York City area. In fact, they made a report and said that the Chinese children were not eligible for the lunch, the free lunch that they were giving to the communities, because it showed in their State report that the Asian community is very low in the welfare so therefore there is no need for PS 124 to have a lunch program.

So I think basically because we took care of our own and that we are quietly doing something, you do not see some of these figures or we just do not make a lot of noise. And it is unfortunate that in this system, in order to get attention to show what we are doing and where we are, we have to make a lot of noise.

And I think you have to realize in our cultural background we do not do things like that. And so each of the families takes care of its own, they take care of their own brothers and sisters, the problems they have; they rarely go to public assistance for public assistance.

Mr. TORRES. Did you wish me to respond to that?

Senator SIMPSON. Yes, please.

Mr. TORRES. Your question was basically do we not believe that it would be in the best interests of the country to have talented and skilled people coming into the country. We have a category obviously, to some extent, allowing for that now. The independent category, I guess the problem that we see there simply is a realistic problem of implementation, practical implementation.

I think it is important that we be very careful and certainly encourage skilled and trained and talented individuals—artists, people of this nature—to add to the variety and the richness of this country. That is what we have now as a result of our prior immigration policies.

The fear that we have is that you do run the risk of encouraging or making it extremely appealing to have some of the best people from some of the more underdeveloping and developing countries coming to the United States as opposed to staying there and contributing their knowledge and abilities to the development of their countries.

In the long run this is not in the best interest of the United States to attract these individuals to this country. We must be very careful how we go about having an independent category that allows for talented and skilled people to come into the country. We must be very careful that we do not encourage them in a way that is going to be detrimental to the sending countries.

But we do not necessarily agree that this should not be a category and that these opportunities should not be provided to such individuals. There should be a monopoly or better yet, as we had indicated, we do not feel that there should be a blatant encouragement to the point where it is detrimental in the long run to everybody involved in the situation.

Senator SIMPSON. Well, I can understand what you are saying, very clearly. And yet, you know, the definition of immigrant is a person who has chosen to leave his country behind. I mean that is what he has chosen to do, and often leaves his family behind. At least that has been the history of immigrants. And I think that that is a consideration that people make when they make a conscious decision to emigrate.

I agree with you, and I am certain, that is an easier transition period the larger the individual's intimate circle. I believe that. I do believe that. And that is why family reunification is the very touchstone of everything we do in this country and as the gentleman from Canada said, the very touchstone of their policies.

But in this immigration issue, what is the role of the United States? To make that adjustment as easy as possible? That may be.

There are those that feel that it is the duty of the United States as the receiving country to make that as easy as possible.

But I just think those things come into the consideration of a most awesome step in the life of a human being, and that is the decision to emigrate from his own native land, knowing that perhaps he will not see brothers and sisters, that they are less likely to live together again, and if they were here it would be even more unlikely that they would live with adult brothers and sisters.

I guess what I am saying is, after all that business, that the fifth preference gives me the most problem. That is a concern to me.

Let me ask you, Mr. Torres, you state that the existing system has produced these backlogs. That is very true, and we have studied that fact in the Select Commission, as well as the fact that many people are unwilling to wait until their place on the waiting list is reached; instead, they enter the United States illegally.

Should we then assume a more passive immigration policy, adjusting our numerical limitations according to foreign demand, so that no backlogs would develop?

Mr. TORRES. Well, I think that would be the utopia for everybody who wants to emigrate. But realistically, I believe that there is a reasonable backlog that people can accept and are willing to abide by if they are given reason to believe that after this reasonable time their request to immigrate is going to be honored and processed. Under the present system, you have a great deal of deception, unfortunately, almost by design now, and unfortunately under this administration it almost appears to be a blatant one because of the lack of commitment for resources.

Also, the most recent article that appeared today in the Post indicated a significant problem with entries and exits.

I think simply we suggest that there be a reasonable backlog in which people can abide by but at the same time that it be a matter of policy to inform them of a 2- or a 1-year waiting period that they can at least look forward to and feel that it is going to be complied with. I think that is a very orderly way of conducting our immigration policy. It is an incentive to certainly comply, even a disincentive to immigrate illegally if you recognize that your chance is going to be coming up eventually within a reasonable period of time. It is a very conducive process because it can prepare a person to prepare him or herself to come into the country, maybe even seek employment. In other words, it just makes for a much more free-flowing and orderly fashion for immigrating.

Senator SIMPSON. One of the things that I remember well from the Select Commission activity is that it appeared that backlogs are going to be absolutely inevitable as long as there are numerical limitations. Is not the act of eliminating backlogs really retroactively increasing the numerical limits to equal the demand? I guess that is the issue.

Mr. TORRES. Well, I think obviously the direction that we are taking is that the numbers should increase. We are not supportive of the 300,000 to 350,000 ceilings. We would be more interested, as we have indicated before, as some of us in the Hispanic community have discussed, in having a national quota of a million. [Laughter.]

Senator SIMPSON. I have not said anything.

Mr. TORRES. No; but it is just the thought that it is almost three times greater than what you are suggesting.

But I think in the sense of regardless of what number you have, we are not saying that you can eliminate or you must eliminate all of the backlog. You always are going to have one, there is no doubt about it, that the more you have we would think the less you will. The more opportunity to come in, the less a backlog that you will have.

The demand is great to come into the country. But I would not look simply at the numerical ceilings regardless of what number they are to be the ends to the means of stopping the flow of people or stopping the desire to come into the country. There must be other things that should be applied to the situation in order to have it become more reasonable insofar as to what this country can realistically accept.

So in that regard, obviously there is going to a need to increase the numerical ceilings, and we would be supportive of that. But we feel that if we deal with the backlogs in a reasonable way, that it is going to be more effective and you will have a more orderly system.

Senator SIMPSON. Well, you have twice now used that figure of a million. And I really—this will dazzle you—you know, that figure does not knock me off the chair, if we were to do certain other things to correct the illegal entry and do the things that we know that should be done, because we have apprehended 1 million people. We talk about an INS and a system of enforcement that is absolutely out of whack and out of control, and yet they have apprehended 1 million.

Mr. TORRES. No. But we should note for the record that the apprehensions that you speak of, you know as well as I do that apprehension figures are extremely unreliable and are not very reflective or indicative of the true situation. We do not know if they are triple, quadruple counted or whatever. And it is the way the INS actually makes out its reports when apprehending.

But we think a million is a figure, to some extent, that this country could easly absorb.

Senator SIMPSON. Let me just ask one other question. Then I think Mrs. Kee may have some comments, and I want to hear any that she does.

But with respect to the issue of backlogs, what percentage of persons in the Mexican backlogs, in the second and fourth and fifth preferences do you estimate might already be living here in the United States? Just your view.

Mr. TORRES. We would think under the second preference that being the highest in the backlog for the country of Mexico and primarily all other Latin American countries that have significant backlogs, we would feel that there is a significant number in the second preference already in the country. I know some personally. And I would anticipate that that is the greatest desire or the category that has the most desire to emigrate to the country.

There is a significant figure, I think, to some extent, in the brother and sister, so I would anticipate that the figure there too is also somewhat high.

But I think the second preference is certainly the one that you would have the most people in this country illegally under the present system.

Senator SIMPSON. Mrs. Kee, do you have anything to add? I saw you scribbling there. I am going to give you a chance before we wind up this part of the panel.

Mrs. KEE. Well, I would like to see that you would think a little about the system that we are using now in the United States for preference. And as Arnold here said, the first, second, fourth, and fifth are for family members, and the third and the sixth are for employment preference.

I think right now our concern for the Asian American community, there are people who have waited 15 years, 12 years, for the backlog of fifth preference.

And then in the Hong Kong allocation, which is the British colony, that backlog has been years and years. And these people are very highly qualified people. They are many who have been very successful businessmen, engineers, doctors, and even knighted by the Queen of England. But if there is a visa petition applied for these Hong Kong residents, they still have to wait 12 years, 15 years, because there is only 600 allocated to these people born in Hong Kong.

Senator SIMPSON. Yes.

Mrs. KEE. Of Chinese ancestry. So therefore, I really feel that the fifth preference has always been the problem for the Chinese community, and that if this thing is eliminated, that means all these people waited all these years again, discriminated against coming into the country. So I like to be very clear about this fifth preference, our concern, and that some consideration or work out some agreement on the married brothers and sisters under the fifth preference.

Senator SIMPSON. Let me share with you another point about that fifth preference, and that is that if we were to have an expanded independent category, brothers and sisters might well have a real advantage on others in finding job and skill opportunities and skilled employment opportunities because of their family connections already in the United States. That is possible. That would give some preference to brothers and sisters without explicitly earmarking them in the law. There is that possibility. Would you concur?

Mrs. KEE. In other words, you are saying if there is a category in the job opportunity and give preference because they have family members over here with additional support? Is that what you are saying?

Senator SIMPSON. No. If we were to have an independent category and knock down the fifth preference and allocate those numbers to an independent category, then would not brothers and sisters, those in that category, have an advantage over others in finding job skill opportunities because of their family connections already in the United States?

Mrs. KEE. Well, that would be good if you then open up some of the labor certification laws, because, for instance, like an investor for $100,000 or $50,000 or whatever the criteria would be, but right now you could see in the Labor Department there is that backlog

in the Labor Department where they have you applying in the Department of Labor for certification, then the Immigration will again process that application and could deny it too. So it really is a "Catch-22."

Senator SIMPSON. Yes, it is.

Father Cogo, as a member of this panel, would you come forward, sir? I am sorry, I did not recognize you. We have already had the testimony of Mr. Torres and Mrs. Kee. And I really do not have too many more questions for them. Whatever their schedule is, the panel was set to go from 2:30 until 3:30, I believe.

So if you will proceed, sir, we certainly want to accept your testimony into the record.

Reverend COGO. Thank you, Mr. Chairman. My train was late, and this is, as you know, unusual for a Metroliner to be late.

Senator SIMPSON. If that is going to happen with the Metroliner, there is no hope for us after the airlines, so I believe you anyway.

Mr. TORRES. Senator, I would just like to make one point, since we are pretty much finished. For the record, we are very concerned that the package that you are going to develop include legislation or provisions for dealing with the problems that we are having how, the problems that came out today in the paper, the problems that we discussed in the backlogs, the whole operation of INS.

We did pass a bill, the Congress did, on INS that we felt was very adequate and appropriate, to some extent, but falls extremely short of the mark in view of the more recent findings of the status of INS.

We would urge the subcommittee and yourself directly to address the backlog issue as much as we possibly can, but more importantly, should we have a commissioner of the INS, that we be very quick to somehow attach specific directives to him to take specific action and, if need be, if there is need for additional money, then I certainly would urge this Congress to make them available as soon as possible, because if we do not, regardless of what you pass, you are not going to make a dent.

The other issue before we leave you is the issue of labor certification and the possibility of expanding the H-2 program. I know that that is not one of the topics, but it certainly does fall into some line with labor certification. It is our understanding that the Department of Labor, at the urging of the Department of Agriculture, is considering the possibilities of increasing the H-2 program through rules and regulations to 250,000 a year, with concentration in the agricultural industry.

This is an extremely foolish move by this administration, should they actually take it at this time when we are in the middle of a debate on immigration and have yet to develop any clear-cut policies or direction. We would ask that this subcommittee take specific interest in this potential development and somehow call the Department of Agriculture and the Labor once they are back at work and earning their money, to come before you or answer questions on this information that we have received from extremely good sources.

So we are very bothered by this development, and I think you would be too, because it would really screw up the Simpson program.

Senator SIMPSON. It would?

Mr. TORRES. Yes. Thank you very much.

Senator SIMPSON. Thank you very much, Mr. Torres, and Mrs. Kee. We appreciate very much having your testimony.

And we will consider that recommendation, and we will visit with those agencies of Government about that issue.

Father Cogo, please proceed.

STATEMENT OF REV. JOSEPH A. COGO, C.S., NATIONAL EXECUTIVE SECRETARY, AMERICAN COMMITTEE OF ITALIAN MIGRATION

Reverend COGO. Before answering your first question, Mr. Chairman, should the fifth preference be eliminated, I should like to express some preliminary observations. The passage of the Immigration Reform Act of October 3, 1965, established a fair and equitable immigration policy which reaffirmed and sanctioned our traditions in favor of family reunion but provided also numbers for skilled workers and set aside a number for refugees. We believe these criteria to be sound, humane, and fair.

However, the experience of 16 years of its operation has amply demonstrated that there are serious deficiencies that must now be corrected in order to make the law responsive to the present needs and to the needs of the foreseeable future.

That is why we feel that a revision of the 1965 act is now necessary. The principles, however, of the 1965 act remain sound and should be firmly preserved and, in fact, strengthened in any new legislation. These are: one, family reunion; two, the good of our economy; and three, alleviation of refugee problems.

These principles are each so important that no one should be sacrificed for the sake of the others. And this is one deficiency that is found in the present law, where we have third preference intermingled with family reunion. We noted with satisfaction that in the area of refugees, the new law of 1980 did set aside a fixed yet flexible number to respond to this situation in a much better way than the 1965 law provided.

We believe that the law should be structured in such a way as to deal with these three principles separately: A certain number for family reunion, with its own preferences and percentages; a certain number for workers, with its own preferences and percentages; and a set yet flexible number for refugees. We would have a three-tiered law with a separate quota for the three groups of immigrants.

Such a law would be easier to administer but, more importantly, it would achieve fairness and equity in the distribution of visas to prospective immigrants. It is not right, in fact, that a close relative be kept out because all the numbers are preempted by a nonrelative category, third preference.

Neither is it right that manpower needs in the economy remain unfilled because all the numbers are preempted by family reunion. And, of course, it is only proper that a realistic number be set aside for refugees.

One, family reunion. The family reunion concept should have, as it now does, a definite priority in our immigration policy. It is a

basic human right of any American citizen to have his family members join him in the United States. This right should not be in any way curbed or restricted in our immigration laws.

In view of the fact that it becomes necessary to control the number of immigrants our country can absorb, it is inevitable that we must establish preferences and percentages for nonimmediate relatives of citizens and for all relatives of permanent resident aliens. The set of preferences of the 1965 act and the sequence of priorities are fair.

The percentages might be better distributed after considering the data provided by the experience of the last 16 years. The Federal agencies involved in the operation of the immigration law will undoubtedly recommend the necessary adjustments. We limit ourselves to suggesting as a general observation that the higher preferences should receive larger percentages and that any unused visas be allocated to the next lower categories. Occasional small backlogs in the fourth preference, and even substantial backlogs in the fifth, may occur due to worldwide political and economic conditions. But these can be tolerated.

Coming down to the first question, the fifth preference, should it be eliminated. We must make a strong recommendation against the elimination or even redefinition of the fifth preference. It is tempting for a legislator in a desire to avoid future backlogs to eliminate what one sees as a source of potential trouble; that is, the fifth preference.

We strongly oppose this move, because it goes against the concept of family reunion, which is shared by many ethnic groups that make up a good majority of our American society. For Italians and for many other ethnic groups, brothers and sisters, whether or not they are married, are an integral part of the family reunion concept. Elimination of this preference category would violate a sacrosanct human right of an American citizen to live with his family according to his own traditional life style.

Furthermore, this category of immigrants is the easiest to resettle, for the obvious reason that they have the support of their families here. There is practically no potential for need of public assistance, and these immigrants would, generally speaking, take jobs our citizens are not anxious to have.

Elimination of this preference would adversely affect immigration from many countries of Europe with which we have longstanding alliances in a very substantial manner. Immigration from Europe has already diminished considerably in these last 10 years. Elimination of this preference would deal a further blow which will reduce it to a trickle.

Of course, the proponents of the elimination of this preference argue that the retention of this preference would cause serious backlogs, which they find unacceptable. And we respond to them. One, living with a backlog is certainly better than living with no prospect of immigration at all.

Two, backlogs are expected to occur in some countries—China, India, the Philippines, for example. U.S. immigration policy should not be structured on the basis of the demands of only a few countries, thereby creating a disadvantage to a large majority of the countries of the world.

Three, the projection of backlogs is often misleading. It is true that by calculating present backlogs and projecting them into the future, the numbers become staggering. But in practice, the mere existence of a 1-or-2-year backlog discourages new applicants. Furthermore, after 1 or 2 years of waiting on the list, the number of applicants who will maintain the interest in migrating when their turn is reached will be found to have diminished very substantially. We can talk about this phenomenon with some authority, having had this experience with Italian backlogs over the years.

Addressing now your second question, should the proportion of immigrants screened for labor market impact be increased, as we stated earlier in this testimony, we would like to see an immigration law with a separate quota for people who can contribute to the good of our economy. This group should include the present third and sixth preferences and the so-called investors who are now under the nonpreference.

The number of visas allotted to this group should be fixed in a long-term range based on the long-range forecast of what the needs of our economy are expected to be, and yet flexible so that it could be readily ajusted to the present needs of the economy. This way, in time of a booming economy the number of people admitted can be very generous, while instead, in time of a poor economy or recession, that number can be reduced.

Senator SIMPSON. Father, I hate to be rude, and I do not enjoy this role, but could you summarize in a very brief fashion, sir, because I have allowed you to go past the time that all other witnesses have observed.

Reverend COGO. Certainly, Mr. Chairman, I will do that.

The first difficulty with the present law as it is now is the intermingling of the family reunion-type of immigrants with the labor workers immigrants. Therefore, if we have a three-tier law, this would not happen.

Second, the difficulty with the present labor certification procedure procedures, and I am sure that here I am only repeating what you have heard and heard and heard over again, and I agree that the labor certification procedure should be much more simple than they are now, and they should be established on a regional basis. And this would be the second question.

And the last point that you ask here is the point system. In a three-tier law the concept of a point system has no reason for being. We are, therefore, opposed to the point system.

Family immigrants are admitted for reasons of a philosophical nature; in other words, we want our American citizens to have a right to have their families join them here.

We could see the validity of the point system only in case Congress should decide to eliminate the fifth preference. Only in that case then we still would like to give brothers and sisters a preference over people who do not have any close relation here.

And this ends my testimony, Mr. Chairman.

Senator SIMPSON. Thank you very much., I appreciate your abbreviating those remarks.

[The prepared statement of Father Cogo follows:]

PREPARED STATEMENT OF REV. JOSEPH A. COGO, C.S.

It is my privilege to appear before you in behalf of the American Committee on Italian Migration—which is a non-profit, voluntary agency whose primary purpose is the implementation of a fair immigration policy with a specific interest in the resettlement of and assistance to Italian immigrants both prior to and after their arrival in the United States.

We wish to express our appreciation to the Subcommittee on Immigration and Refugee Policy of the United States Senate on the Judiciary for according us this opportunity to testify on the important subject of our country's immigration policies.

The purpose of this presentation is only to touch on the three fundamental principles that we feel should be reflected in our immigration law, and to respond to specific questions on some areas of concern.

The passage of the Immigration Reform Act of October 3, 1965 marked a milestone in the history of our immigration legislation. It abolished the discriminatory national origins quota system and established a fair and equitable immigration policy. The present law reaffirmed and sanctioned our traditions in favoring family reunion, but provides as well for the admission of professionals and skilled workers in the interest of our national economy, and set aside a permanent number to visas to be allocated for the relief of refugee problems. We believe these criteria are sound, humane and fair.

The Act of 1965, therefore, was a good start; it was, in my opinion, the best product that could have been realized at that time, and we are proud of having had the opportunity to make it come into being the way it did. However, the experience of 16 years of its operation has amply shown serious deficiencies that must now be corrected in order to make that law responsive to the present needs and to the needs of the foreseeable future. It is generally agreed that the phenomenon of immigration is a constantly changing phenomenon; no law, therefore, can ever expect to rigidly regulate it for an indefinite number of years. That is why we feel that a revision of the 1965 Act is now necessary.

The principles, however, of the 1965 Act remain sound and should be firmly preserved, and in fact strengthened in any new legislation. The are: (1) Family reunion; (2) The good of our economy; and (3) The alleviation of refugee problems.

These principles are each so important that no one should be sacrificed for the sake of the others. And this is one deficiency that is found in the present law, where we have third preference intermingled with family reunion. We noted with satisfaction that in the area of refugees, the new law of 1980 did set aside a fixed, yet flexible number to respond to this situation in a much better way than the 1965 Law provided.

We believe that the law should be structured in such a way as to deal with these three principles separately: a set number for family reunion with its own preferences and percentages; a set number for workers with its own preferences and percentages; and a set, yet flexible, number for refugees. We would have a three-tier law with a separate quota for the three groups of immigrants.

Such a law would be easier to administer, but more importantly, it would achieve fairness and equity in the distribution of visas to prospective immigrants. It is not right, in fact, that a close relative be kept out because all the numbers are preempted by a non-relative category (third preference), as it now occurs in some cases (natives of the Philippines, for example). Neither is it right that manpower needs in the economy remain unfilled because all the numbers are pre-empted by family reunion. And, of course, it is only proper that a realistic number be set aside for refugees independent of the other two categories.

(1) FAMILY REUNION

The family reunion concept should have, as it now does, a definite priority in our immigration policy. It is the basic human right of any American citizen to have his family members join him in the United States. This right should not be in any way curbed or restricted in our immigration laws. Therefore, it is our recommendation that immediate relatives, as defined in the present law, not be subject to numerical limitations and that all other members of the nuclear family, including brothers and sisters whether married or single, be given priority over other immigrants.

The same basic human right should be applied, if possible, to permanent resident aliens. However, as they have not as yet made a final commitment to this country by becoming citizens, there may be justification for assuming that our obligation is less stringent towards them. The privilege, however, of "immediate relative" status

is in practice purely theoretical, because in actuality first and second preference candidates always have visas available.

In view of the fact that it becomes necessary to control the number of immigrants our country can absorb, it is inevitable that we must establish preferences and percentages for non-immediate relatives of citizens and for all relatives of permanent resident aliens.

The set of preferences of the 1965 Act and the sequence of priority are fair; the percentages might be better distributed after considering the data provided by the experience of the last 16 years. The federal agencies involved in the operation of the immigration law will undoubtedly recommend the necessary adjustments. We limit ourselves to suggesting, as a general observation, that the higher preferences should receive a larger percentage and that any unused visas be allocated to the next lower categories. It would be, in fact, very detrimental to family reunion to have unavailabilities of visas or backlogs in the first and second preferences as they are now defined Occasional small backlogs in the fourth preference and even substantial backlogs in the fifth may occur due to world-wide political and economic conditions, but these can be tolerated.

At this point, however, we must make a strong recommendation against the elimination or even redefiniton of the fifth preference. It is tempting for a legislator in a desire to avoid future backlogs to eliminate what one sees as a source of potential trouble, i.e., the fifth preference. We strongly oppose this move because it goes against the concept of family reunion which is shared by many ethnic groups that make up a good majority of our American society.

The move has surfaced often, and proposals to either eliminate the fifth preference or to limit it only to unmarried brothers and sisters of U.S. citizens have appeared in various immigration bills in the last 10 years.

A strong trend presently seems to be toward the latter alternative. The proponents of such a change expound the theory that once a new family unit is started through the marriage of a brother of sister, the close family ties which previously existed no longer exist. This conclusion is simply untrue. Persons do not grow apart from a brother or sister solely because one or the other is married. In many studies, of recent date, sociologists point out that the more important consideration in a personal relationship is physical propinquity—that is, how close people are in distance, not their marital state.

For Italians, and for many other ethnic groups, brothers and sisters, whether or not they are married, are an integral part of the family reunion concept. Elimination of this preference category would violate a sacrosanct human right of an American citizen to live with his family according to his own tradition and life-style.

Furthermore, this category of immigrants is the easiest to resettle for the obvious reason that they have the support of their families here. There is practically no potential for need of public assistance, and these immigrants would, generally speaking, take jobs our citizens are not anxious to have.

Elimination of this preference would adversely affect immigration from many countries of Europe with which we have long standing alliances in a very substantial manner. Immigration from Europe has already diminished considerably in these last ten years. The elimination of the fifth preference would deal a further blow which will reduce it to a trickle.

The proponents of elimination of the fifth preference argue that the retention of this preference will cause serious backlogs which they find unacceptable.

Our response to them is:

One. Linving with a backlog is certainly better than living with no prospect of immigration at all.

Two. Backlogs are expected to occur in some countries, China, India, The Philippines, for examples. U.S. immigration policies should not be structured on the basis of the demands of only a few countries, thereby imposing a restriction of the rights of U.S. citizens to be joined by their families and creating a disadvantage to a large majority of the countries of the world.

Three: The projection of backlogs is often misleading. It is true that by calculating present backlogs and projecting them into the future, the numbers become staggering. But in practice, the mere existence of one or two-year backlogs discourages new applicants. Furthermore, after one or two years of waiting on the lists, the number of applicants who will maintain the interest in migrating when their turn is reached will be found to have diminished very substantially. We can talk about this phenomenon with some authority, having had this experience with Italian backlogs over the years.

(2) THE GOOD OF OUR ECONOMY

As we stated earlier on in this testimony, we would like to see an immigration law with a separate quota for people who can contribute to the good of our economy.

This group should include the present 3rd and 6th preferences and the so-called "investors" who are now under the non-preference.

The number of visas allotted to this group should be fixed on a long-term range based on the long-range forecast of what the needs of our economy are expected to be, and yet flexible so that it could be readily adjusted to the present needs of the economy. This way, in time of a booming economy the number of people admitted can be very generous, while instead in time of a poor economy or recession, that number can be reduced.

In order to make this concept operable, substantial modifications have to be made in the area of "labor certification".

The present labor certification procedures are not achieving the purposes they are intended to achieve.

The first difficulty in the present law is that the third preference is intermingled with family immigrants. In some countries the heavy demand under the 3rd category pre-empts numbers that should be going to family applicants in the fourth and fifth categories. This difficulty can be resolved by taking the workers category out of the family categories.

The second difficulty is the laborious procedure which at times requires years before an application is processed and a number becomes available. An employer cannot wait this long to fill his pressing needs.

The labor certification procedure should be simple enough to allow an application to be processed in a reasonable length of time, one or two months.

The certification should be based on a regional rather than national level, and blanket certification should be established for job categories where a need is ascertained in a certain geographical region.

(3) REFUGEES

We have no expertise in this area, so we limit ourselves to stating that the 1980 Refugee Law is definitely a great improvement. We surely approve the concept of setting aside a separate number for refugees, which is fixed on a long-range perspective, yet flexible enough to respond to emergency situations.

OTHER OBSERVATIONS

(1) "THE POINT SYSTEM"

In a three-tier law the concept of "point system" has no reason for being. We are, therefore, opposed to this system.

Family immigrants are admitted for reason of the validity of the family reunion philosophy; the "worker" immigrants are admitted because they can contribute to the good of the economy; the refugee immigrants are admitted for humanitarian reasons.

We see the validity of the "point system" only if the Congress legislated to eliminate the present fifth preference (to which, of course, we are adamantly opposed). If brothers and sisters of U.S. citizens had no way to be admitted under the family categories, then they should at least be given priority of admission over the simple worker with no family ties here.

(2) TOTAL NUMBER OF IMMIGRANTS

With regard to the total number of immigrants that should be admitted per year, it is a question better addressed by demographers, sociologists, and economists. We limit ourselves to stating that it should be a generous number and in keeping with humanitarian principles. The United States has international responsibilities, human, social and political, and in its great tradition, must be ready to share its well-being in times of international political or natural catastrophies.

We should like again to express our concern that in a desire to limit numbers Congress should not eliminate the fifth preference because in so doing, it would cause a reverse discrimination against our traditional allies, the countries of Europe, who would no longer be in a position to compete with several countries in the East for a fair share of immigration visas.

Whatever the total number is that Congress feels the country can absorb under the preferences, brothers and sisters of U.S. citizens should be included.

(3) PER-COUNTRY CEILINGS

The concept of fair competition leads to the concept of per-country ceilings. A common-sense evaluation of reality makes it imperative to impose a ceiling on the number of visas a country can hope to receive. We find it also acceptable, in view of an analogous evaluation of reality, for neighboring countries to enjoy a more generous number of visas. In fact, in the case of Mexico the situation is so unique and important to our country that special arrangements should be made to our mutual benefit.

Per-country ceilings ensure fairness of opportunity for all and an equitable distribution of visas among immigrants from all countries.

In the review of the testimony with the previous witnesses, we went back to that dictionary phrase of the nuclear family, which in our English dictionary is a self-contained family unit consisting of a mother and father and their children and sometimes defined as a married couple and their dependent minor children, all of whom live together as a unit. That certainly is not consistent with the customs of those in Asia.

The question was, as we have pursued this issue, should not the U.S. immigration law be based upon the customs and values of the American people rather than on those of other nations?

An admittedly extreme hypothetical example would be: What if another country regarded all relatives, irrespective of the degree of consanguinity as being equally close or being part of the nuclear family? Should U.S. policy be expected to reflect that by permitting all of those relatives to be admitted to the United States as soon as one is naturalized?

Reverend COGO. I was very happy that you clarified here that it is the definition of the English dictionary, not necessarily of the American dictionary.

Senator SIMPSON. It is an English phrase, I should say, in English, but probably an American dictionary.

Reverend COGO. I would disagree with you that this is the concept of the American people. This is a Nation of immigrants. And if you take, for instance, many European countries that have established this society, the nuclear family is extended a little bit more than the definition that you have given before.

Of course, we do agree that the closest family is the direct line, parents and children. We do agree with that. And therefore, if we were to cut because of a scarcity of numbers, the brothers and sisters will have to be the first ones to go. This is obvious.

On the other hand, however, we feel that our American law has been conceived in the past traditionally to include also the brothers and sisters, for a very good reason. because I think it responded to the American philosophy.

Senator SIMPSON. The fifth-preference discussion has been one of the most interesting of those involving the preference system, both with the Select Commission and here, especially the possibility of terminating the fifth preference and going to an expanded independent category. That is what has been discussed.

I would inquire or just suggest that it would seem that if we had this expanded independent category, married brothers and sisters would then have an advantage over others in finding jobs and higher skill opportunities because of their family connections already here in the United States, and that would in effect be a kind of preference to brothers and sisters without explicitly defining

them or categorizing them in the law. What is your thought about that?

Reverend COGO. The thinking is correct but the premises are wrong, in my opinion. In other words, why would we give, if we have limited number of visas, access to people who have no ties here, like the independent category, and leave out instead the brothers and sisters of American citizens? Therefore, to me, the concept is wrong, because you are taking away from a citizen and you are giving to one who does not have any close ties here. So it is ill-conceived.

Senator SIMPSON. There can be a brother or sister who uses another as a sponsoring agent to come here and yet one here has no communication or contact with that person.

Reverend COGO. Well, now, you are taking the exceptions to make a rule. What this does, in effect, is to open the door to people who have no reason for being here, like the independent category, and you close the door to those who have American citizens, brothers and sisters. To me that does not make sense.

Senator SIMPSON. That is why there is such diversity in this place. The national interest versus the family interest.

Reverend COGO. Well, is not the nation made up of its own citizens? I think actually this concept was conceived because of the fear of backlogs. Now, I would try to solve that problem another way, by putting per-country ceilings. In other words, Asia has 2 million people who would like to come here. I am sorry, you have your ceiling, 20,000, make it 30,000, 40,000, whatever Congress might decide. Once you have reached your maximum, "Sorry, you have to wait."

But instead, it seems to me that the proponents of this new independent category are trying to divert the attention from the real problem, and I do not go along with that.

Senator SIMPSON. Let me ask you, you state in your testimony that family reunification numbers should be limited to 350,000 to 400,000. Would that include the approximately 155,000 immediate family members of U.S. citizens who enter annually outside of the numerical limitation?

Reverend COGO. No. And, Mr. Chairman, in throwing out those numbers, I do not mean to propose that to be the last word. Congress has to decide what is good for our country and therefore how many numbers can be absorbed by our society, after hearing the expertise of demographers, sociologists, et cetera.

Senator SIMPSON. Yes. Well, the numbers are a critical point, and the setting of limits is going to be one of the toughest parts of this.

Reverend COGO. Yes.

Senator SIMPSON. But you have stated that backlogs are very misleading and usually reflect a high dropout rate. I would be interested in how you present that evidence. The Select Commission stated that even when dropouts were factored in, that the current backlog is about 600,000.

Reverend COGO. Mr. Chairman, I can only bring out the example of Italy. As of January 1, 1980, the figures quoted by the Select Commission as being the Italian backlog under the fifth preference

were 8,005. Now, January 1, 1981, that same backlog was 4,400-some. How do you explain?

In the meantime, in the previous year, only about 5,000 Italians came in. Therefore, I would have to deduce that the numbers have decreased, because people have not shown an interest anymore. We also have an historical precedent; in 1965, when the new law passed, the Italian backlog used to be 110,000. In the subsequent 5 or 6 years, only about 60,000 or 70,000 of those people came in.

Senator SIMPSON. Yes. We do have a significant problem with the older immigrant groups, such as the Germans and the Irish who do not have family ties now and who are not going to be considered unless we go to another type of independent category.

Reverend COGO. Did you see how fast they built up this new structure? The Irish, for instance, used to get about 8,000 before the 1965 law. If you notice now, of the few numbers of Irish who come in, about 50 percent of them are coming in under the fifth preference. And the same will happen with the other European countries. In other words, once we have a law, people will have to get used to the law, and they are getting used to the law. The Irish example is typical.

Senator SIMPSON. I thank you very much. I hope that you have a good journey back, and a more prompt one. Thank you for appearing.

Reverend COGO. Thank you, Senator.

Senator SIMPSON. And, please, that 's no problem at all. I am just pleased you came. It is very helpful t(have your testimony.

Reverend COGO. Thank you very much.

Senator SIMPSON. Thank you very much, Father Cogo.

Now, the final panel of the afternoon. Barry Chiswick, University of Illinois; Mark Killingsworth of Rutgers University; and Mark Rosenzweig, of the University of Minnesota.

Let us take about a 5-minute recess, please, if we may. [Brief recess.]

Senator SIMPSON. We will proceed. The panel is present, and we will just proceed in the order on the agenda there. Barry Chiswick, please.

STATEMENT OF BARRY R. CHISWICK, RESEARCH PROFESSOR, DEPARTMENT OF ECONOMICS AND SURVEY RESEARCH LABORATORY, UNIVERSITY OF ILLINOIS AT CHICAGO CIRCLE

Mr. CHISWICK. Thank you very much. It is a pleasure to be here and to testify before the subcommittee.

Today's subject of discussion, the immigration preference system, was developed in 1965 during the period of euphoria regarding the likely prospects for the economy. As a result the preference system places a heavy emphasis on kinship ties with little concern for the economic impact of immigration.

OCCUPATIONAL PREFERENCE VISAS AND LABOR CERTIFICATION

Currently, the immediate relatives of U.S. citizens and refugees are not subject to the preference system. Of the 270,000 visas that are part of the preference system, at least 80 percent are reserved for the nonimmediate relatives of U.S. citizens and resident aliens.

At most, 20 percent of these visas are reserved for occupational preference categories.

But of these occupational preference visas, about 50 to 60 percent are used by the dependents, the spouses and minor children of the workers who receive a labor certificate. Only about 27,000 per year are used by workers who are skill tested. That means less than 5 percent of all immigrants coming into the United States in a year are in any way skill tested.

Skill testing is done by labor certification. Of those receiving a labor certification, two-thirds are already in the United States, many of of them are already working either legally or illegally. The labor certification system is heavily weighted in favor of those currently working in the United States because obtaining a labor certificate places a substantial burden on a potential employer.

The schedule A occupations, which are given a favorable treatment in the labor certification system, are determined in a rather arbitrary manner. Dieticians with advanced degrees are included or removed from the list depending on how much noise the American Association of Dietetics makes to the Labor Department. And the same is true for other occupations who are either present or absent from the list.

The current labor certification procedure is not effective in selecting the most productive workers among visa applicants. In addition, there tends to be substantial "leakage" in that many who become resident aliens under the labor certification procedures do not stay in the job or the occupation for which a certificate was abtained.

Yet it is true that labor certification is an important source of skilled workers in the immigration stream. One-fifth of all professionals who enter the United States do so under the labor certification. More than one-quarter of the engineers, nurses, physicians, research scientists, and university professors also enter under this system.

So the occupational preferences are an important source of skilled workers, a source of skilled workers that could be increased even though they are handled very imperfectly.

ECONOMIC PROGRESS AND IMPACT OF IMMIGRANTS

There have been a number of research studies that have considered the economic progress and economic adjustment of people who come to the United States under different immigration categories. These studies show that those who enter under the occupational preferences, the skill-tested categories, have higher earnings and higher educational status than those who enter under other categories. But in addition, even when you control for education and other variables, these workers tend to do better in the labor market than workers who enter under the kinships or refugee categories.

The impact of immigrants on the native population is, in part, a function of the skill characteristics of the immigrants. Lower skilled immigrants tend to lower the earnings of unskilled native workers, widen income inequality, and result in a greater use of

income transfers by both the native born population and the immigrants.

Skilled immigrants, on the other hand, tend to increase the earnings of low skilled workers, narrow wage differentials, and result in a smaller use of income transfers by the natives born population and immigrants.

Can we design an immigration policy that would increase economic growth and reduce the size of income tranfers in GNP? We can do that by scrapping the current system of preferences and adopting a skill base rationing system. One would simultaneously have to introduce a point system to combine the multidimensional aspects of skill. Schooling, vocational training, prearranged employment and knowledge of English would be some of the elements that enter the skill base rationing point system.

The new method of rationing visas should not include the racist elements that existed in the national-origins quota system. No points should be given for race; no points should be given on the basis of country of origin.

One can include in this skill-based rationing system some consideration for close family ties. For example, a small number of points could be given for kinsmen whose U.S. citizen sponsors agree to guarantee support for at least the first 5 years in the United States. But in a rationing system based on skill, kinship should not serve as an overwhelming characteristic.

In terms of my discussion of the skill-based rationing system, I am excluding people who are the immediate relatives of U.S. citizens. that is, wives and minor children, who I believe should be allowed to enter independent of skill level.

IS A SKILL-BASED SYSTEM ANTIFAMILY

Is the skill-based system antifamily? I think it is not. For one thing, potential immigrants with relatives in the United States would have the greatest incentive to apply to the United States for entry and hence would be more likely to come to this country. In addition, the immediate relatives of U.S. citizens could still enter without restriction. Under this system, the spouse and minor children of successful applicants would accompany the applicant, thus not breaking up husbands and wives. For other kinsmen, the U.S. relative can be of assistance in guaranteeing support, helping prearrange a bona fide job, and perhaps more important, investing of the skills of relatives.

This is a means of actually testing the interest in the immigration of relatives. Under the current system, there is no meaningful test as a person just says, "Yes, I am willing to let my brother come into the United States." Under the system that I am suggesting, the U.S. citizen who wants his brother to enter would have to be a little more aggressive if his brother could not enter on the basis of his own skill characteristics. One way of being a little more aggressive would be investing in his brother's skills.

WHO GAINS AND WHO LOSES

There would be gainers and losers from this system. The losers from moving to a skill-based rationing system would be low-skilled

immigrants. The gainers would be low-skilled U.S. workers, the taxpayers, and high-skilled immigrants. With a greater favorable economic impact of immigrants, I think there would be much more public support for increasing the annual quota of immigrants to the United States.

Thank you.

Senator SIMPSON. Thank you very much indeed.

[The prepared statement of Mr. Chiswick follows:]

Prepared Statement of Barry R. Chiswick

It is my pleasure to appear before this Subcommittee and share with you my research findings and thoughts regarding U.S. immigration policy. As these hearings are on the system of preferences for allocating visas among potential immigrants, I will limit my comments to this dimension of immigration policy. These comments will present highlights of my recent study "Guidelines for the Reform of Immigration Policy," which has been sent to each member of this Subcommitte.[1]

Current Preference System

The current system of preferences for allocating immigration visas was developed in 1965 during a period of euphoria regarding prospects for future economic growth. At that time, it seemed that low levels of inflation and unemployment would persist, as would high rates of increase in productivity. At the same time, it was obvious that the racist and ethnocentric "national origins" quota system introduced in the 1920's was inconsistent with emerging domestic and foreign policies.

The commendable objective of ridding immigration policy of the national origins quota system, combined with naive optimism regarding the economy, resulted in the current preference system. Although modified somewhat over the intervening 15 years, the basic feature, an emphasis on kinship ties, has been strengthened. Under current law, including the modifications introduced in the 1980 Refugee Act, at least 80 percent of the annual worldwide quota of 270,000 (non-refugee) immigrant visas are reserved for the relatives of U.S. citizens and resident aliens (Table 1). In addition, the immediate relatives of U.S. citizens can enter the country without numerical limitation, and in recent years these have numbered about 100,000 to 125,000 persons per year.

The 20 percent of the preference-system visas not reserved for the relatives of U.S. citizens and resident aliens constitute the third and

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[1] Barry R. Chiswick, "Guidelines for the Reform of Immigration Policy" in William Fellner, ed., Essays in Contemporary Economic Problems, 1981-82 Edition, Washington: American Enterprise Institute, 1981. A more lengthly analysis of the points raised in this testimony is to be published in 1982 in P. Cafferty, B.R. Chiswick, A. Greeley and T. Sullivan, Beyond the Golden Door, (Free Press, forthcoming).

TABLE 1

SUMMARY OF THE IMMIGRATION PREFERENCE SYSTEM UNDER THE 1965 AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT AND SUBSEQUENT AMENDMENTS

Immigrants Not Subject to Numerical Limitation

Spouse and minor children of U.S. citizens and the parents of U.S. citizens over age 21

Immigrants Subject to Numerical Limitation in the Preference System

Quotas (visas per year)

	1965–1978	*1979–1980*	*1981–present*
Eastern Hemisphere[a]	170,000	290,000	270,000
Western Hemisphere[a]	120,000		
Country ceiling[b]	20,000	20,000	20,000

Preference System[c]

Preference	*Characteristic*	*Maximum proportion of visas*
First	Unmarried adult children of U.S. citizens	20 percent
Second[d]	Spouse and unmarried children of permanent resident aliens	20 percent plus any not required for first preference[d]
Third	Professionals, scientists, and artists of exceptional ability	10 percent
Fourth	Married children of U.S. citizens	10 percent plus any not required for first three preferences
Fifth	Siblings of U.S. citizens	24 percent plus any not required for first four preferences
Sixth	Workers in occupations for which labor is scarce in the U.S.	10 percent
Seventh[e]	Refugees[e]	6 percent[e]
Nonpreference	Any applicant not entitled to a preference	Numbers not required for preference applicants
—	Spouse and minor children of any preference applicant can be classified with the same preference if a visa is not otherwise available	Charged to appropriate preference

(Table 1--Continued)

sixth preferences. The third preference provides for the immigration of professionals and persons of exceptional ability in the (non-performing) arts and sciences, while the sixth preference refers to skilled workers whose services are needed in occupations for which U.S. workers are in short supply. For both occupational preferences, a cumbersome application procedure is required of the potential immigrant and a U.S. employer. The program is administered by the Office of Labor Certification in the U.S. Department of Labor.

The impact of the labor certification program on the skill distribution of immigrants is much smaller than is implied by the 20 percent share in the preference system. First, the visas for the spouse and minor children of recipients of labor certifications are generally charged to the occupational preference. In fiscal year 1978, for example, 64 percent of the Western Hemisphere occupational-preference immigrants and 52 percent from the Eastern Hemisphere were the spouses and minor children of the labor certificate recipients. Second, when a worker obtains a visa through an occupational preference there is no legal obligation to work in

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Table 1 — Continued

[a]The hemisphere quotas were converted to a combined world ceiling of 290,000 visas by the 1978 amendments and reduced to 270,000 visas per year when the Refugee Act of 1980 removed refugees from the preference system.

[b]Country ceiling applicable to the Eastern Hemisphere under the 1965 amendments and the Western Hemisphere since the 1977 amendments.

[c]Preference system applicable to the Eastern Hemisphere under the 1965 amendments and the Western Hemisphere under the 1977 amendments. Prior to 1977, Western Hemisphere visas were issued on a first-come, first-served basis.

[d]Increased to 26 percent of the 270,000 the visas with the passage of the Refugee Act of 1980.

[e]The Refugee Act of 1980 established a quota of 50,000 visas for refugees outside of the preference system and gave the president authority to admit additional refugees. The act changed the definition of "refugee" to a person with a well-founded fear of religious, political, or racial persecution regardless of country of origin, whereas refugee status was previously applicable only to persons fleeing a Communist country or the general area of the Middle East.

SOURCE: Immigration and Naturalization Service

that job or occupation. The extent of the "leakage" out of the job for which certificate is received is believed to be substantial. Third, there is a tendency for the occupational preferences to be used by persons already in the U.S. who seek an adjustment of status. Of the 14,175 occupational-preference visas issued to workers in 1978, 65 percent received an adjustment of status, meaning they were already in the U.S. under another visa (Table 2). The cumbersome certification process, which generally requires considerable employer cooperation, gives a decided advantage to persons who are already working in this country.

In spite of these limitations on the size and scope of the number of immigrants who may enter under the occupational preferences, they are a vital source of professional workers in the immigration stream (Table 2). Among immigrants in 1978 who reported an occupation on their visa application, one-fifth of the professionals were beneficiaries of an occupational preference. More than one-quarter of the engineers, nurses, physicians, research scientists, and college and university teachers who immigrated did so under an occupational preference. Among workers in other occupations, only a small proportion entered with an occupational preference visa, as most used the kinship preferences.

This review of U.S. immigration policy indicates it is best characterized as focusing on kinship with a U.S. citizen or resident alien as the primary criteria for rationing immigration visas. Few visas are issued on the basis of skill or likely productivity in the United States, and for these few, a cumbersome application procedure gives advantages to those already working in the U.S. in comparison with more productive potential immigrants still in their home country.

Impact of Immigrants

Recent research studies have considered the economic adjustment and economic impact of immigrants.[1]

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[1] See, for example, Chiswick, op.cit., and Barry R. Chiswick, "The Effect of Immigration on the Level and Distribution of Economic Well-Being," in Barry R. Chiswick, ed., The Gateway: U.S. Immigration Issues and Policies, Washington: American Enterprise Institute, 1981, and Barry R. Chiswick, "The Economic Progress of Immigrants: Some Apparently Universal Patterns," in William Fellner, ed., Contemporary Economic Problems, 1979, Washington: American Enterprise Institute, 1979.

Table 2

BENEFICIARIES OF OCCUPATIONAL PREFERENCES, BY IMMIGRANT STATUS AND OCCUPATION, FISCAL YEAR 1978

Occupation	*Third Preference*		*Sixth Preference*		*Total*	*Percentage*[a]
	Admissions	Adjustments of status	Admissions	Adjustments of status		
Professional, technical, and kindred	2,091	3,181	736	2,968	8,976	18.4
Engineers	356	434	197	646	1,653	24.7
Nurses	731	238	45	479	1,493	30.2
Physicians	146	743	23	159	1,071	24.1
Research workers (not specified)	21	369	8	179	577	43.4
Scientists (life and physical)	108	237	45	144	534	29.5
Teachers (college and university)	47	195	47	180	469	25.3
Writers, artists, and entertainers	43	99	112	211	465	9.4
Managers (except farm)	10	3	466	1,285	1,764	8.4
Sales, clerical, and kindred	2	0	145	299	446	1.3
Craftsmen and kindred	0	0	519	399	918	3.3
Operatives (including transport)	0	0	119	139	258	0.5
Laborers (except farm)	0	0	51	61	112	0.5
Farm (laborers, foremen, and managers)	0	0	27	90	117	1.0
Service (except private household)	0	0	504	501	1,005	4.0
Cooks	0	0	399	364	763	14.3
Private household workers	0	0	263	316	579	5.5
Total	2,103	3,184	2,830	6,058	14,175	5.7[b]

NOTE: All detailed occupations with 450 or more beneficiaries of an occupational preference are listed separately.

[a]Percentage of immigrants reporting a labor-market occupation.

[b]Percentage of immigrants reporting a labor-market occupation. The figure is 2.4 percent if expressed as a percentage of all immigrants, including housewives, youths, students, the aged, and others.

SOURCE: 1978 Statistical Yearbook, Immigration and Naturalization Service, U.S. Department of Justice, 1980, Table 8A.

Summarized briefly, the studies of the economic adjustment of immigrants show that their productivity in the U.S., as measured by their earnings and occupational status, is greater for:

a. immigrants with higher levels of schooling,

b. immigrants with more skills acquired on the job or in vocational training programs,

c. immigrants with more transferable skills (e.g., medicine rather than law),

d. economic immigrants rather than political refugees or immigrants who accompany their relatives (tied movers or kinship migrants).

In addition, immigrants from less developed countries, particularly Mexico, tend to earn less than others, even after other variables that determine earnings are held constant.

The impact of immigrants depends on the productivity characteristics of the immigrants. The more highly skilled are the immigrants, the more favorable their impacts are on employment, income inequality, the earnings of low-skilled workers, and the income of the population as a whole. The growth in earnings of high-skilled native workers is, however, slowed by the immigration of high-skilled workers, although this is at least partially offset by the relative decline in taxes to finance income transfers.

The impacts of low-skilled immigrants are less favorable. They are more likely to raise unemployment because of downward wage rigidity for low-skilled workers (e.g., due to the minimum wage), widen wage differentials on the basis of skill, increase income inequality, and increase the use of income transfers by the low-income native population. Indeed, if the immigrants themselves are substantial recipients of income transfers, low-skilled immigrants can reduce the average income (net of taxes and public transfers) of the native population.

An Alternative Immigration Policy

A review of current U.S. policy shows that kinship is the primary criterion for rationing immigration visas and that the skills or productivity characteristics of visa applicants play a relatively minor role. Analyses of occupational distributions and earnings of immigrants indicate there is a difference in the skill levels and earnings of immigrants admitted under

kinship and productivity criteria. Analyses of the impact of immigrants show that more favorable impacts on the level and distribution of income of the native population arise from higher-skilled immigrants than from lower-skilled immigrants. These findings suggest considering productivity rather than kinship as the primary means of rationing immigration visas.

a. Skill-based Rationing System

As an alternative to the current system, the focus of immigration policy could be radically shifted from kinship criteria to productivity characteristics. Persons exempt from these restrictions would include the immediate relatives (spouse, minor children, and aged parents) of U.S. citizens and refugees who are, of course, admitted under separate criteria.

Under a productivity or skill-based policy the primary criterion for rationing admissions would be the person's likely productivity in the United States. Although additional research would be beneficial, research to date indicates than an immigrant's productivity, as measured by earnings and employment, appears to be related to the level and transferability of pre-immigration skills (including level of schooling, vocational training, and on-the-job training), occupation, and knowledge of English. Pre-arranged employment may also be a favorable characteristic.

One temptation in a productivity-based immigration policy is to grant visas to applicants in narrowly defined occupations in which there are "shortages" and deny visas to applicants in "crowded" occupations. Indeed, in the occupational preferences in current immigration law this approach has been adopted with absurd consequences. Physicians, nurses, physical therapists, and dieticians, among others, are added or withdrawn from the list of the most favored occupations not on the basis of labor-market studies, but rather as a consequence of political pressures of interested parties. Studies are not done to determine whether other occupations, such as engineering, are in equally "short supply." The economic aspects of the issues, including the subsequent occupational adjustments of the immigrants and the change in the occupational structure of the native-born labor force as a consequence of immigration, appear to play no role in the rule-making process.

How can we avoid the manipulation of a skill-based rationing system by narrow occupational interests? The more broadly defined the occupational categories, the more diffused the adverse impact from a cohort of immigrants, and the smaller the incentive for any one occupation to attempt to close that category. Equally relevant, it is difficult for planners to know where there will be labor "shortages" and where there will be labor "surpluses" in the coming years. Even with this information, occupational adjustments occur not only through the immigration of persons in the occupation but also through the substantial occupational change of immigrants after they arrive in the United States, as well as through the occupational change of native-born Americans. The focus in a skill-based rationing system should be on skill level, rather than on the applicant's narrowly defined occupation.

There would be more broadly based political support for admitting a larger number of immigrants each year under a skill-based rationing system than under the current kinship system. This would arise from the more favorable impact of immigration on both the level and distribution of income.

b. Point System

To combine the multidimensional aspects of skills into rationing criteria may necessitate the adoption of a point system rather than a preference system. Under a preference system, as formulated in current law, a person must meet a minimum standard under any one of several categories to be eligible for a visa. There is no possibility for combining equities under each of two or more categories to raise one's rank in the queue. On the other hand, under a point system it is the sum of points obtainable from several categories, rather than crossing a threshold in any one category, that is relevant.

A certain number of points could be earned for various productivity traits, and a visa would be issued to persons who satisfied a minimum number of points.[1] Each year of schooling completed may be worth, for

[1]Persons exempt from these restrictions would include the immediate relatives (spouse, minor children and aged parents) of U.S. citizens, and refugees.

example, two points. Apprenticeship training, vocational training, and relevant on-the-job training would also earn points for the candidate. Points could be earned, say on a scale of 0 to 5, for fluency in English, and other points could be received for prearranged employment. To preserve the non-racist character of immigration policy, points should not be granted on the basis of race, ethnicity, religion, or country of origin.

To reduce variations in the annual number of immigrants, a worldwide annual quota could be retained, with visas issued to those with the largest number of points among those who satisfy the threshold. To reduce some of the uncertainty as to when immigration will occur among those in the queue, additional points (that do not count toward satisfying the minimum threshold) might be given for waiting in the queue. Of course, if the queue gets too long, either the minimum-threshold number of points or the annual quota should be increased.

The point system can be flexible to provide greater immigration opportunities for persons with relatives in the United States. This should be done without violating the rationing system's concern for the economic impact of immigrants. Thus, a small number of points may be awarded, for example, to applicants with close relatives in the United States who will guarantee their financial support for, say, a five-year period. In this manner, persons who do not satisfy the general productivity criterion but whose presence is of considerable "consumption value" to their relatives in this country would be more able to immigrate legally.

c. The Canadian Experience

Productivity or skill characteristics and a point system form the basis for rationing visas by Canada, Australia, and New Zealand. These policies have, apparently, been successful in raising the skill level of immigrants. For example, in 1962 Canada shifted from a kinship-based immigration policy, not unlike current U.S. policy, to a system with kinship criteria for immediate relatives of Canadians and a primarily skill-based point system for others. The proportion of professional and technical workers among the immigrants increased from an annual average of 12 percent in 1956-1960 to an annual average of 26 percent in 1962-1971.

The annual average proportion of unskilled workers declined from 36 percent in 1956-1960 to 16 percent in 1962-71.[1]

Is It Anti-family?

It may be argued by some that the productivity criterion outlined above is anti-family, that is, that such a dramatic change from the current system would end the humanitarian goal of family reunification. This is not the situation. Foreigners with more kinsmen in the United States would still be more likely to apply for an immigrant visa since coming to the United States is more attractive to them than to others in their home country. The immediate relatives of U.S. citizens (spouse, minor children, and aged parents) would still be eligible for admission without numerical restrictions. For other applicants, those who have sufficient points to immigrate can do so and be "reunited" with family members.

Those with kinsmen in the United States would have two advantages. Their relatives could help them prearrange employment, and they could guarantee the immigrant's financial support for the first five years. In addition, the U.S. relatives could invest in the potential immigrant's human capital (schooling or job-related training) thereby raising the applicant's rank in the queue. The willingness of U.S. citizens and resident aliens to engage in these activities is one test of their interest in the immigration of their kinsmen.

There will be many who could immigrate under the current kinship criteria but not under the productivity criteria. The immigration of these persons is at the expense of the U.S. population which accepts a less productive worker instead of a more productive worker without relatives already here. The largest adverse impact is experienced by native-born low-skilled workers who face greater competition in the labor market and in the allocation of income-contingent transfers from a larger number of low-skilled immigrants. The current system provides the largest benefits to the U.S. relatives of immigrants entering under kinship criteria, many of whom are themselves recent citizens and resident aliens. This inequity would be removed under the productivity criteria.

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[1] Louis Parai, "Canada's Immigration Policy: 1962-74," International Migration Review (Winter 1975), pp. 469-472.

Conclusion

Immigration will continue to play an important role in American economic life. The public policy issue is not simply whether immigration per se is beneficial, but rather whether increased benefits to the United States can be obtained from changes in the number of immigrants and the rationing criteria. In the nineteenth century public policy showed little regard for the income-distribution impacts of immigration and there were no public income-transfer systems to mitigate the losses to groups for whom the impact was adverse. In such an era an open-door or laissez-faire immigration policy was politically acceptable. These conditions no longer prevail, and an open-door immigration policy is not a politically viable alternative. If there are to be limits on immigration, there must be a rationing mechanism. A rationing mechanism that would provide a more rapid growth in the income of the native population and a relatively smaller income-transfer system is generally to be preferred to one that offers opposite effects.

Current immigration policy is characterized by a rationing system that is based on kinship and by lax enforcement of immigration law. This policy has resulted in a relatively larger number of low-skilled immigrants than would have been here if the rationing criteria had focused on the level of skill.

As an alternative to current policy, Congress should give serious consideration to shifting the focus in rationing visas from kinship to the applicant's level of skill. As skill is not unidimensional, a point system should be adopted to combine the diverse elements into a single number. With the exception of the immediate relatives of adult U.S. citizens, whose entry would not be subject to numerical limitations, visas would be issued to those with the greatest number of points, that is, to those with the greatest likely productivity in the United States. Points could also be given for less immediate kinship relationships where financial support would be guaranteed by the U.S. sponsor, but this should not be allowed to overwhelm the productivity criteria. This proposal would better satisfy the twin objectives of increasing the productive potential of the economy and reducing the relative size of the income transfer system than would the current system.

Senator SIMPSON. Mr. Killingsworth, it is nice to see you again. I remember you participated recently in a similar area.

Mr. Killingsworth. I am glad to see you.

Senator SIMPSON. It is nice to see you again, sir.

STATEMENT OF MARK R. KILLINGSWORTH, DEPARTMENT OF ECONOMICS, RUTGERS—THE STATE UNIVERSITY AND NATIONAL OPINION RESEARCH CENTER

Mr. KILLINGSWORTH. Before I summarize my testimony, I think I should say that 6 months ago I was someone who thought that a visa abuser was someone who was involved with credit-card fraud, so that I may not be as expert a witness on immigration as I would like.

Partly for that reason, I do not want to tie myself or yourself up in a variety of different technical matters. I just would like to lay out a few general principles, and I think I can summarize them under three headings, three points.

The first may sound very strange, coming from an economist, but I think nevertheless it is a point that economists all recognize quite deeply. And that is that economics alone does not really tell the whole story; there are a variety of other, noneconomic, considerations that affect the national interest—quote unquote—as regards immigration.

Economists, I think, have long recognized that noneconomic factors can be very important in seemingly economic decisions. For example, we sometimes might be willing to take a job that pays less money if we thought that it had working conditions or fringe benefits or other kinds of nonmoney benefits that more than made up for the pay. And likewise, judging immigration and setting immigration policy, although economics may be quite important, I think most economists recognize that a variety of other noneconomic factors, like cultural and charitable and religious ones and so on also apply and cannot really be ignored.

The second point—which may also make you uncomfortable because again I am afraid it may only serve to underscore the limits of what economists know rather than claim that they know everything—the second point is that although there has been a great deal of research on the labor market and economic effects of immigration over the last several years, and while the two people who join me at this table between themselves are responsible in one way or another for a hefty chunk of it, I think it would nevertheless still be fair to say that we lack firm evidence on a variety of different points.

For example, studies of the economic progress of immigrants once they get into this country seem to suggest that immigrants make quite remarkable progress. But there are some serious technical limitations that ought to argue, I think, for some caution in taking those results at face value.

The first of those cautions or problems is the fact that immigrants are to some extent a self-selected group. And that causes trouble for the typical statistician's random selection sort of approach to analyzing various kinds of behavior patterns.

The second problem is that the kinds of studies that have been done on immigrants have been based on single snapshots taken, let us say, from the 1970 census, and they therefore may confound two different kinds of things: first, the pure effect of time changing—of immigrants making progress as time passes—on the one hand, with vintage effects, the fact that someone who has been here for 30 years as compared with someone who came here only 10 years ago not only has been here longer but also came at a different point in time is of a different vintage, is a 1950 vintage as opposed to a 1970 vintage immigrant.

The difficulty there is that although we often want to know how the passage of time alters the economic status of immigrants, what we may be finding, at least to some extent, in pure cross sections of this sort is simply the progress of different vintages of immigrants.

The third point concerns labor certification, which I think is a somewhat more technical sort of issue. Here, I think, when economists are asked rather technical and narrowminded questions and when they are given a policy target and are asked to dream up a way that might be a little bit better at getting toward that objective, maybe economists have something a little bit firmer to offer.

I think one possible alternative to the current sort of labor certification program, if it is agreed that some sort of certification or limitation for certain kinds of immigrant workers is desirable, would be to rely at least to a greater extent than is now the case not on prospective certification—people saying, "Yes, I will need immigrants, and if I have them, they will not affect the wages and employment conditions of Americans," but rather to rely to a somewhat greater extent on retrospective evaluation than on prospective certification.

This would mean, for example, inspecting the wage bill and the employment level of employers who do in fact get allocated various kinds of certified alien workers, a little bit in the same way that one simply puts in for a tax credit after having made some sort of investment. In principle, at least, it would be possible for the government agency involved to make a determination as to whether, in fact, having had the aliens has resulted in lower employment or lower wages for Americans.

On the other hand, it may be very difficult to administer. So I offer that as something tentative rather than something conclusive.

Senator SIMPSON. Thank you so much.

[The prepared statement of Mr. Killingsworth follows:]

Prepared Statement of Mark R. Killingsworth

In this statement, I first discuss a number of general principles relevant to economic aspects of immigration, and then consider two specific immigration issues: proposals for "productivity screening" as a means of determining which prospective immigrants will be admitted to the U. S., and policies regarding labor certification programs.

My main conclusions may be summarized as follows:

1. Questions about what kinds of immigrants to admit to the U. S., like questions about the total number of immigrants to admit to the U. S., raise a host of issues, only some of which are narrowly economic in nature and many of which call for inherently -- and unavoidably -- subjective judgements. While purely economic objectives may be an important feature of any immigration policy, they should not be the sine qua non of a sensible immigration policy. Other considerations -- cultural, political, charitable, religious, etc. -- also apply, and cannot be ignored.

2. Research on the labor market effects of immigration has grown considerably in recent years, but is still patchy and limited in extent. Firm evidence that speaks directly to policy questions about the labor market effects of immigration is hard to come by. In particular:

   a. Studies of the economic progress of immigrants may provide little direct evidence on the labor market experience of current and future immigrants, both because immigrants are in part a "self-selected" group and because earnings differences between recent immigrants and previous ("older") immigrants may in part reflect "vintage" or "cohort" effects rather than economic advances per se.

   b. Studies of the effects of immigrants on the wages and employment of American workers are still in a rudimentary stage, and are based largely on "guesstimates" rather than on firm evidence. General analytical considerations suggest that American workers in a

given skill category (e.g., "unskilled") are likely to lose as a result of immigration of persons with the same or similar skills. However, whether other groups of native workers with different skills will either gain or lose as a result of such immigration is very much an open question.

3. It may be possible to use labor certification programs -- regulation of the number of temporary immigrant workers allocated to employers on the basis of a "certified need" -- to limit adverse wage and employment effects of immigration by making such programs retrospective, rather than prospective, in nature. However, developing a workable retrospective labor certification program is likely to prove difficult.

I. Economic Aspects of Immigration: General Principles

For all of its problems, the U. S. offers substantial economic and non-economic benefits to large numbers of foreigners: a better standard of living; more political, cultural and religious freedom; greater social mobility; and so on. Prospective immigrants recognize that uprooting themselves entails numerous monetary and psychic costs: outlays for travel, separation from friends and a familiar culture, etc. But the net outcome of the individual cost-the number of foreigners who seek admission to this country is large, and there is thus an enormous potential "supply of immigrants" to the U. S.

Similarly, immigrants offer substantial economic and non-economic benefits to large numbers of Americans. Many employers eagerly await the arrival of immigrants; some even recruit workers abroad. Past immigrants now residing in the U. S., or their offspring, encourage relatives and friends left behind to join them in this country, help them to come and provide still more assistance once they arrive. Relief and refugee organizations welcome persons fleeing political, religious or economic persecution with open arms (and priests and ministers travel to Cuba to assist would-be refugees even before their departure). In many cases, as with employers who seek immigrant labor, the motives underlying this American "demand for immigrants" are largely economic. In many

other cases, the sources of the "demand for immigrants" are primarily non-economic, and derive from charitable, religious, cultural, family, etc., motives. Either way, however, the American "demand for immigrants," like the foreign "supply of immigrants," reflects the net outcome of individual calculations of costs and benefits, broadly defined -- and, like the foreign supply of immigrants, the American demand for immigrants appears to be substantial.

These individual "suppliers" and "demanders" of immigration are almost surely better at reckoning the costs and benefits that they themselves will experience than any government official or agency could be. One response of government might therefore be a "hands-off" policy towards immigration. Indeed, the U. S. Government followed a more-or-less hands-off policy (albeit with some significant exceptions) until 1921. However, governments frequently try, as the U. S. Government has tried for the past sixty years, to regulate or influence the "market" for immigrants -- to restrain or encourage immigrant supply, demand or both. Why?

The reasons fall under two headings. First, governments often seek to regulate the "immigrant market" in the belief that the private cost-benefit calculations that underly immigrant supply and demand may ignore important general interests -- costs or benefits -- of concern to the population of the country of destination as a whole. On the one hand, immigrants (or the persons who encourage and help immigrants to immigrate) may not always bear all of the costs of immigration. For example, it is sometimes argued that immigration may result in overcrowding or other similar pressures on scarce resources of land, minerals, water and space in the country of destination, thereby imposing a cost or loss on its present inhabitants. (See Usher, 1977.) On the other hand, immigration may permit a country to exploit substantial economies of scale or to provide various public goods and services, such as defense or schooling, at a lower unit cost, thereby granting a benefit or gain to inhabitants of the country to which the immigrants come. (For example, see Arad and Hillman,

1979.) Finally, immigration may involve transfers of wealth or income from the immigrants to the inhabitants of the country to which the immigrants come, or vice-versa: for example, immigration may involve transfers of income or wealth from inhabitants to immigrants via the welfare system (in the case of immigration of poor individuals) or the tax system (in the case of immigration of wealthy or highly-skilled individuals). In sum, the "national interest" of the inhabitants may not always correspond closely to the "private interest" of the suppliers and demanders of immigration, since some of the costs of immigration may be borne not by those suppliers and demanders but by the rest of the population in the receiving country -- and similarly for some of the benefits of immigration.

A second reason why governments may seek to regulate the "market for immigration" is that, whether or not immigration is in the "national interest" (however defined), it may have strong effects -- positive or negative -- on the interests of important specific groups. For example, certain U. S. employers clearly benefit from immigrant-induced increases in the supply of labor; by the same token, such increases in the supply of labor will generally keep wages below the level that would otherwise have prevailed, which certainly is contrary to the interest of the native workers who are directly affected.

For better or for worse, then, both "national interest" and "special interest" motives have prompted the U. S. government (and most other governments) to attempt to regulate immigration flows. In some cases, governments have attempted to encourage immigration: for example, countries such as Israel and Australia have at times gone so far as to pay subsidies to prospective immigrants. (For example, see Arad and Hillman, 1979.) In many other cases, governments -- including the U. S. Government -- have sought to control immigration so as to reduce it below the level that would otherwise have occurred. Either kind of action is -- in effect, if not in intent -- a judgement that, left to their own devices, the suppliers and demanders of immigration would generate either too little or too much immigration, relative to the level that is

optimal from the standpoint of the national interest or the interest of a special group.

To say that it is difficult to determine the "right amount" of immigration will come as cold comfort to policy-makers: they know that already. To try to define "the national interest" as regards immigration is to enter a minefield. To try to evaluate claims about "the national interest," as far as immigration is concerned, is equally difficult. For example, such claims may simply be self-serving attempts to cloak self-interest in an aura of respectability -- while arguments of so-called "special interest groups" may raise vital issues of national concern, despite their seemingly parochial character.

The power of economic analysis is considerable, and the expertise of economists can be quite useful to policymakers charged with unravelling the complicated tangle of issues involving immigration. However, economists have no special insight into questions about "the national interest," and expertise in economic analysis does not confer expertise on questions about "the national interest": economists are no more qualified to expound on such matters than are other people. The main insight economics has to offer on questions about special or national interests involving immigration is a paradoxical, if fairly obvious, one: such questions raise a host of profound issues that do not really have much to do with purely pecuniary matters as such. In particular, economic analysis has long stressed that individuals strive to get the most satisfaction that they can get, rather than the highest income, and that, in most cases, individual decisions are therefore based on a variety of factors, including not only purely pecuniary considerations but also various non-pecuniary ones. Thus, to take a simple example, a job with pleasant working conditions may be preferable, in the eyes of a given individual, to a job with less agreeable working conditions that pays a higher wage.

The same principle applies to questions about immigration. For example, an immigration policy that maximizes the national output or its rate of growth is not necessarily the best immigra-

tion policy, nor is a policy that admits only those would-be immigrants with the greatest economic productivity. Economic well-being is extremely important, but it is by no means the whole story, and it should not be the sole basis of immigration policy. (Chiswick, 1978, p. 287.)

The potential contribution of economic analysis to development of immigration policy, then, lies elsewhere. While emphasizing that attaining purely pecuniary objectives should not be the sine qua non of any sensible immigration policy, economists can nevertheless provide useful advice on two kinds of policy questions: first, on the purely pecuniary effects of any particular immigration policy; and, second, on purely pecuniary aspects of immigration policy. Policy-makers will still have to make judgements about the importance of various different pecuniary and non-pecuniary costs and benefits of immigration; since non-pecuniary costs and benefits are notoriously difficult to quantify, such judgements must of necessity be very subjective. But at least economists can help to clarify the nature and extent of the pecuniary effects against which these non-pecuniary effects will be weighed. In what follows, I consider two questions of this kind: first, the labor market effects of using "productivity standards," to a greater extent than is now the case, as a means of deciding which prospective immigrants will or will not be admitted into the U. S.; and, second, alternative ways of controlling some of the labor market effects of immigration through labor certification programs.

II. Productivity Standards

Much recent discussion of immigration policy has been concerned with the desirability of reducing the influx of relatively unskilled immigrants into this country, by either legal or (in particular) illegal means. (For an example, see Otero, 1981.) Since I have considered this issue elsewhere at some length (Killingsworth, 1981), I will focus here on the other side of the skill question: proposals to increase the "skill content" of the immigrant inflow by placing relatively greater emphasis, in the allocation of visas, on the earning potential of

prospective immigrants and relatively less emphasis on other considerations (e.g., family reunification, assistance to refugees, etc.). If implemented effectively, how would such proposals affect the domestic labor market?

Discussion of this question must rest on a number of assumptions that should be made explicit at the outset. First, it is somewhat nonsensical to speak of measures that alter the skill content of the immigrant inflow from unskilled to skilled (or the reverse) if illegal immigration proceeds unchecked: marginal adjustments in legal immigration aimed at altering the skill content of such immigration may simply be swamped by illegal immigration. Accordingly, I assume that it is possible to exercise effective control over all immigration, meaning not just its overall volume but also its skill composition. It goes without saying that this is a tall order.

Second, I also assume that it is possible to alter existing visa preference schemes so as to deemphasize factors other than potential productivity or earning power and emphasize potential productivity and earning power as such. This is presumably a fairly straightforward matter, but it raises an interesting question: to what extent does the skill content of immigration admitted under preference categories aimed at family reunification or refugee assistance really differ from the skill content of immigration admitted under categories concerned with skill and occupation (i. e., the so-called Third and Sixth preference categories)? To the best of my knowledge, there is not much evidence on this point. However, emphasizing skill and occupation (and de-emphasizing other factors), in order to be effective, would probably require a redesigned system of preference categories rather than a simple alteration of numerical or percentage limits established for the existing system of preferences.

With this in mind, I now consider the labor market effects of an immigration-induced increase in the supply of skilled labor. Since most immigrants bring their own labor power but not capital (physical or financial wealth) with them into this country, I will follow most other recent analyses (e.g., Usher, 1977; Chis-

wick, 1978) in considering the effects of an increase in the supply of skilled labor that does not change the supply of capital to the U. S. economy.

Two basic concepts provide the key to understanding how such immigration will affect the labor market: the "own-wage elasticity of employer demand for labor," and the "cross-wage elasticity of employer demand for labor." The first has to do with how a change in the wage that must be paid to a particular type of labor will affect the demand for that type of labor. The second has to do with how a change in the wage that must be paid to a particular type of labor will affect the demand for other types of labor.

When skilled immigrants enter the labor market, they increase the supply of skilled labor available to employers. Here the first of the two notions mentioned above comes into play: as a rule, employers will hire some of this increased supply only if the wage of the skilled falls. This, of course, is simply the "law" of "downward-sloping demand," or, to use technical jargon, the notion that the gross own-wage elasticity of employer demand for labor is negative. The increase in the supply of skilled labor will lead to a reduction in the wage paid to skilled labor and thus -- since the gross own-wage elasticity of demand for skilled labor is positive -- to an increase in employment of skilled labor. (If the reduction in the skilled wage does not induce appreciable withdrawals of domestic skilled workers from the labor force, then the increase in skilled employment will be accompanied by little or no "displacement" of natives by immigrants. In this case, skilled immigrants will have "created" jobs for themselves without "destroying" or "taking away" jobs held by natives to any substantial extent. However, note that the way in which such "job creation" occurs is via a wage reduction, and that, to the extent to which skilled native workers do indeed drop out of the labor force -- to go on welfare, unemployment insurance, back to school, etc. -- the immigration will have "displaced" natives.)

To understand how immigration of skilled workers may affect other skill groups, i. e., the "unskilled," it is necessary to

consider the second of the two concepts noted above, i. e., the cross-wage elasticity of demand for labor. To say that two skill groups are "gross substitutes in production" means that, other things being equal, a decrease in the wage received by one skill group will prompt employers to substitute away from workers in the other skill group and towards the now-cheaper workers in the first skill group. (Similarly, economists say that margarine and butter are "gross substitutes in consumption" if, other things being equal, a decrease in the price of margarine leads to a decrease in the demand for butter.) In this case -- that is, when a decrease (increase) in the wage received by one skill group leads to a decrease (increase) in employer demand for workers in the other skill group -- economists say that the gross cross-wage elasticity of labor demand for the second skill group is positive.

On the other hand, to say that two skill groups are "gross complements in production" means that, other things being equal, a decrease in the wage received by one skill group (and, thus, an increase in employer demands for persons in that skill group) leads to an increase in employer demands for the other skill group, because the two skill groups "go together" (that is, are "cooperating" or "complementary" in production). (Similarly, economists say that bread and butter are "gross complements in consumption" if, other things being equal, a decrease in the price of butter will lead to an increase in the demand for bread.) In this case -- that is, when a decrease (increase) in the wage received by one skill group leads to an increase (decrease) in employer demands for workers in the other skill group -- economists say that the gross cross-wage elasticity of labor demand for the latter skill group is negative.

To see the implications of these ideas, note, again, that an increase in the supply of skilled workers due to immigration will tend to reduce the wage of skilled workers and, thus, to raise employment of such workers (where "employment" refers to native and immigrant skilled workers taken together). If skilled and unskilled workers are gross complements in production, then this increase in the demand for the skilled will be accompanied by an

increase in employer demands for complementary unskilled labor -- which, in turn, will tend to increase the wage of the unskilled. On the other hand, if skilled and unskilled workers are gross substitutes in production, then the increase in employer demand for skilled labor that occurs due to immigration-induced decreases in the skilled wage will be accompanied by a reduction in employer demands for unskilled labor, as employers attempt to substitute towards the now-cheaper skilled labor and away from unskilled labor. In turn, this will tend to reduce the wage of the unskilled.

In sum:

(i) Domestic skilled workers lose as a result of the immigration of skilled workers, since it pushes their wages down.

(ii) Both skilled immigrants and domestic capitalists gain as a result of immigration: the immigrants, since they earn more in this country than they could earn in their native lands; the capitalists, because each unit of capital now has more labor to work with, is therefore more productive and so earns more for its owners.

(iii) Domestic unskilled labor may either gain or lose as a result of immigration: the unskilled gain from immigration of skilled labor if they are complements for skilled labor (that is, if the cross-wage elasticity of demand for unskilled labor is negative), but the unskilled will lose if they are substitutes for skilled workers (that is, if the cross-wage elasticity of demand for unskilled labor is positive).

Of course, citizens not only may supply labor but also may own (and thus derive income from) capital; and even if total native labor income (of the unskilled and skilled combined) were to fall due to immigration, total domestic income from capital will rise. Indeed, total domestic income -- from labor and capital combined -- will rise as a result of immigration: any drop in total native labor income will be more than offset by the increase in native income from capital. (See Usher, 1977, for a simple diagrammatic discussion of this point; and see also Chiswick, 1978.) In principle, then, domestic gainers from immigration would be able fully to compensate any and all domestic losers. However, as a

practical matter, there is no reason to suppose that all such losers would ever be completely made whole.

Thus, domestic skilled workers can be expected to lose from immigration of skilled labor, while the effect of such immigration on domestic unskilled workers is indeterminate on a priori grounds. Empirical evidence on this question (e. g., on whether skilled and unskilled labor are complements or substitutes) is therefore very important. Unfortunately, however, such evidence is hard to come by. Econometric evidence on labor demand by "skill type" seems to suggest that at least some kinds of "unskilled labor" (defined in various different ways) are substitutes for skilled labor (also defined in various different ways). (For example, see Hamermesh and Grant, 1979.) If so, then, as noted above, an immigration-induced increase in the supply of skilled labor will reduce not only the wage of skilled labor, but also the wage of unskilled labor. However, such evidence on the substitutability (or complementarity) between different skill groups is by no means copper-bottomed, and at best it gives an idea of general direction rather than of actual magnitude.

A second kind of evidence on the possible effects of immigration of skilled labor on wages of both skilled and unskilled workers comes from simulation studies (for example, see Chiswick, 1978, and Epstein, 1974). Such studies are based in part on econometric evidence on complementarity and substitutability, of the kind just described, and in part on "guesstimates" about plausible magnitudes of other crucial economic parameters and about the magnitude of an assumed increase in immigration. Chiswick (1978) concludes, on the basis of his study, that an increase in skilled immigration will result in wage increases for unskilled workers (and in wage decreases for skilled workers); however, his study is based in part on econometric results that assume a priori (via adoption of a so-called CES or "constant elasticity of substitution" production function linking the demands for skilled and unskilled labor) that skilled and unskilled labor are complements, in the sense defined earlier. Epstein (1974), on the other hand, concludes on the basis of his results that an increase in skilled immigration will result in

wage decreases for unskilled workers (and in wage decreases for skilled workers); his study makes no a priori assumption about complementarity or substitutability between skilled and unskilled labor, but does rely on econometric results that, in effect, imply that the two types of labor are substitutes rather than complements.

An important difficulty with both kinds of studies -- econometric studies of labor demand per se, and simulation studies -- is that both analyze the possible reaction of owners of property and of the supply of capital (plant, equipment, etc.) to immigration in a somewhat ad hoc manner. By making both skilled and unskilled workers more productive, increases in the capital stock can change the magnitude and perhaps even the direction of the wage effects described above. However, analyzing such capital-stock effects is difficult, since it involves attempting to specify how the wage changes noted above might affect savings and, thus, investment. To my knowledge, only one study (Rodriguez, 1975) has attempted to do so. Unfortunately, however, it is a purely analytical study concerned with a simple labor market in which all persons, immigrants and natives alike, have the same amount of skill, rather than an empirical study that attempts to quantify the impact of immigration on a labor market in which workers have different degrees of skill.

In sum, whether immigration of skilled workers will raise or reduce the wages of unskilled workers is very much an open question -- as is the likely magnitude of the wage reduction that such immigration would visit on domestic skilled workers.

One other difficulty in assessing the likely effects of immigration of skilled workers concerns empirical questions about the progress of immigrants subsequent to their arrival in the U. S. (See Chiswick, 1978, for a valuable summary of empirical evidence on such questions.) Available evidence appears to suggest that, on average, immigrants make remarkable progress after they arrive in the U. S., and that most immigrant groups have "caught up with" U. S. workers with comparable skills, age, etc., within ten or fifteen years after arrival. However, two facts argue for caution in interpreting these results. First, immigrants are to some extent a self-selected group: in many

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cases, immigration is at least in part the result of a conscious choice on the part of the individual immigrant. In technical terms, then, immigrants now in the U. S. are not a pure "random sample," in the classical statistical sense; and the potentially non-random nature of the immigrant population poses a variety of potentially serious problems for statistical and econometric studies aimed at isolating the factors that contribute to immigrant progress, the time required for immigrants to catch up with U. S. workers, etc.

Second, these studies of immigrant progress are based in almost all cases on cross-section data, i. e., a "snapshot" of a set of different individuals observed as of a given date. In such data, differences between one immigrant and another in terms of length of time in the U. S. reflect differences in "vintage": for example, in 1970 Census data, an immigrant who is recorded as having been in this country for thirty years is someone who arrived here in 1940, while an immigrant who is recorded as having been here for ten years is someone who arrived in 1960. Consequently, the fact that "length of time in the U. S." is positively associated with economic progress (as measured by earnings or other indicators of economic status) in such data may to some extent be a result of differences in "vintage" rather than a result of length of time in the U. S. as such. Ideally, one would want to investigate questions about immigrant progress in the U. S. using panel or longitudinal data, i. e., a "motion picture" of a set of individuals observed over time. In such data, differences between one immigrant and another in terms of length of time in the U. S. reflect differences in "vintage," as in cross-section data; but longitudinal data contain important information that is missing from cross-section data: information about the same set (i. e., the same "vintage") of individuals observed at different points in time, as time passes. Thus, longitudinal data permit investigators to disentangle pure vintage effects from time effects as such. Unfortunately, however, available longitudinal data contain only very small numbers of immigrants, making

reliable inferences about immigrants from such data extremely problematic.

III. Labor Certification

The U. S. currently maintains a number of programs whereunder certain classes of aliens may work in the U. S. on a temporary basis. In one sense, such aliens are "immigrants," but their legal and labor market status is typically rather different from that of most other immigrants (who, once they arrive, are more or less free to come and go within this country as they choose). North (1980) refers to such temporary alien workers as "non-immigrant workers."

In most cases, these workers are admitted into the U. S. after acceptance, by U. S. Government agencies, of a request from a U. S. employer to be allowed to import such workers for specified periods of time and subject to various kinds of restrictions. In particular, such employer requests generally must include a statement, or certification, to the effect that the workers being sought by the employer are in fact "needed" by the employer, are being sought as a result of labor shortages or lack of domestic workers and are not expected to affect adversely the wages, working conditions, employment, etc., of domestic workers. In North's terminology (1980, p. 48), such certification is prospective, in that "the test of the labor market is made well before the [work for which the aliens are being sought] begins."

As noted in the previous section, immigration-induced increases in the supply of a particular type of labor must of necessity reduce the wages (and, unless there is literally no "supply-side" response of domestic workers to those wage cuts, also reduce the employment) of American workers below the level that would have prevailed in the absence of such immigration. (There is one possible exception to this statement -- the case in which wages are fixed at, and may not fall below, some stipulated minimum level, determined either by statute or by collective bargaining. However, given the labor markets in which labor certification operates, this exception seems unlikely to be

a significant one.) However, as actually applied, in practice, decisions on the merits of employer requests for such alien workers seem to be based on a slightly different question: would granting of such requests reduce the wages, employment, etc., of domestic workers below the level now prevailing? In principle, this question could correctly be answered in the negative, e. g., if, in the absence of an influx of alien workers, wages for the employer in question would increase. Put differently, permitting an employer to import alien workers need not result in an actual reduction in wages and employment of American workers; it may simply keep wages from rising.

However, even if they are framed in this way, questions about labor certification tend to excite impassioned controversy, e. g., about whether employers "really need" the foreign labor they request, would suffer serious dislocation were they compelled to increase their employment of American workers, etc. (See North, 1980, esp. Chapter 3, for a particularly vivid discussion of such controversies in the context of the so-called H-2 program.) Several observations seem worth making. First, "need" in this context has little or no meaning independent of the level of wage rates: what an employer "needs" at a low wage level he would not necessarily "need" at a higher wage level. Second, and by the same token, "availability" likewise has little or no meaning independent of the level of wage rates: it may be exceedingly difficult to find workers at a low wage level, but much easier at higher wage levels. (For example, Wise, 1974, calculates that supply of domestic labor to agricultural growers in California is strongly responsive to changes in wages.) Third, the longer an employer has used significant numbers of aliens in his work force, and the greater the proportion of his work force that is alien, the more difficult and expensive it will be for him to replace aliens with Americans, even when calculated on a per-worker-replaced basis. This is because much recruitment of labor (on the employer's side of the market) and much job search (on the prospective employee's side) takes the form of word-of-mouth advertising; an employer who has severed most of his links to sources of domestic (that is, American) labor supply may find

it difficult and expensive to re-establish such links once they have fallen into disuse.

Finally, attempts on the part of government agencies to engage in prospective certification of employers necessarily are difficult, if only because government agencies are not in the business of employing large numbers of alien (or American) workers in business enterprises, while the employers seeking certification are. A possible alternative (or supplement) to such certification procedures may be retrospective certification: to examine the wage bill and employment level of a given employer of nonimmigrant labor after expiration of the period of time for which he has hired such labor. In principle, such examination would permit a determination of whether wages and/or employment of American workers have in fact increased or decreased; in the event of a decrease, the employer might be required to forfeit future rights to import nonimmigrant labor, or have to forfeit a previously-posted bond, etc. This does not address the question of whether it is sound policy to require that the hiring of nonimmigrant labor may not reduce wages and/or employment of American workers under any circumstances, but it does seem a possible means of enforcing such a policy if it is adopted.

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Senator SIMPSON. Now Mr. Rosenzweig, please.

STATEMENT OF PROF. MARK R. ROSENZWEIG, UNIVERSITY OF MINNESOTA

Mr. ROSENZWEIG. Let me address myself to the fifth preference and the point system and make two points first about the fifth preference. I gather the general idea—and I was impressed by your statement to lead off today's hearings—is that given that the United States is not willing to open its borders, there is a necessity of making some choice as to establishing the criteria for selecting immigrants, and one needs therefore to evaluate the current law in terms of how successful it is in choosing the best among the potential applicants.

THE FIFTH PREFERENCE MULTIPLIER

And with respect to the fifth preference, there are two points to make. The first is, as you are well aware, there is an explosive multiplier that is attached to the fifth preference which is unique to all other preference categories, whereby it is not just true that the fifth preference allows the brothers and sisters in of an immigrant who has become a citizen, but if you extend the string along you can see that the admission of one immigrant who has a foreign-born sibling can lead to that immigrant's sister-in-law, brothers-in-law, uncles, cousins, et cetera, through the chain of fifth preference in combination with the other preferences.

Now, as a consequence of that, it is not a coincidence that there has been a tremendous increase in the backlog in recent years, and that one-half of that backlog is composed of fifth preference. In January of 1979—it is probably about the same now—the backlog, as you know, has been 1 million; 500,000 of those are people waiting and who are eligible on the basis of the fifth preference.

Now, what that means is that the people actually being admitted through fifth preference for some countries are coming in on the basis of a particular kind of rationing which is queuing—that is, they are waiting on line—and those who come in, given the backlog because of this explosive multiplier, are then those who are willing to stay on line the longest. And it is just not clear whether that

group is the most preferred among the potential immigrants that the United States would get, however goals are defined.

In a sense then, the fifth preference does not even serve well the people that it presumably is supposed to serve; namely, those people who are petitioning for their brother and sister relatives, since, in some cases, they cannot get them to come in for perhaps as long as 12 years.

COMPARING FIFTH PREFERENCE AND OTHER IMMIGRANTS

Well, it would be nice to answer the question: How do fifth-preference immigrants compare to other immigrants who come into the United States through other preference categories? And I want to reaffirm Mark Killingsworth's statement that this is one area in which there is very little good evidence. But I would like to present some findings that we recently obtained on the basis of a select commission, in concert with INS, study.

We took a sample of the 1971 cohort of immigrants and looked in the administrative records for how many we could find who had filled out the I-53 and how many had naturalized by 1979. By doing this we were able to say something about the different categories of immigrants and how they relate to naturalization and an estimate of emigration.

Of course, because of the law back in 1971 fifth preference only applied to Eastern Hemisphere immigrants at that time. So these findings refer only to Eastern Hemiphere immigrants. However, over 70 percent of current immigrants who come through fifth preference are Eastern Hemisphere. What we found was the following:

For the non-fifth-preference immigrants from the Eastern Hemisphere, we could find after 8 years 60.4 percent; that is, 60 percent had either naturalized or were still filing the I-53's. When we looked to find the fifth-preference immigrants who had come in, we only could find 46.4 percent of them. This suggested to us that it may very well be that the emigration rates of the fifth-preference group may be 35 percent higher than that of the non-fifth-preference immigrants.

If emigration is seen as a sort of gross indicator of success in the United States, it would look like the fifth-preference group is not among the best by that criterion.

We also looked at naturalization. One would think that one of the goals of immigration is to select people who will become citizens of the United States; therefore, naturalization rates are very good indicators of the success of particular immigrants. What we found there was similar. Of the non-fifth-preference Eastern Hemisphere immigrants, 37.6 percent after 8 years had become naturalized citizens. For the fifth preference, the percentage was only 21.9 percent.

So there are strong differences between these categories of people. As far as I know, this is the only evidence that is available from a representative sample of immigrants which provides information which compares these two groups.

THE POINT SYSTEM: ENGLISH LANGUAGE SKILLS AND AGE

Let me now address myself to some aspects of the point system. Again, I am providing some evidence on some of the attributes that might be considered within a point system. And the two that I would like to consider are, one, English language, and two, age. Both of these exist in the Canadian law, as we heard this morning.

Now, there is again very little evidence in the United States on the effect of English language ability in terms of economic success. We looked at the 1976 survey of income and education and found 25 percent of the foreign-born who had been in the United States on the average of 15 years could not speak, write, or understand English. We were surprised by the size of that figure.

We then looked at how strongly this inability to speak or read English was correlated with earnings. We thought that we would find that it would be negatively correlated with earnings, that those with low earnings would be just those who had these language disabilities or English-language disabilities.

To our surprise, we found that there was no significant relationship among males. The finding, however, was that for women, persons who had an inability to speak English had earnings that were 10 percent less than those who could. But that was a very small differential, we thought.

What this may suggest is that the U.S. economy can accommodate lack of English language skills better than we might have thought. That is, the private economy provides little incentive for persons to learn English. Therefore, if it is thought that a language barrier between citizens is itself bad for other reasons, for cultural reasons, for political reasons, then that would suggest that it might be worthwhile to emplace in immigration law some incentives for people to learn English before they come, because the U.S. economy is not going to penalize them very much.

Another criterion in the Canadian law is age. The Canadian system puts a premium on younger immigrants. The evidence on how age at entry correlates with success is unclear. One can get from the census only information on date of entry and age and therefore the effect of either is confounded with, as Mark Killingsworth suggests, both vintage effects and duration effects. So it is very difficult to trace out the pure effect of when a person in his life cycle or her life cycle enters.

There is some evidence that those who enter at younger ages are more likely to speak English later on. But otherwise, we do not know very much.

The only other argument for paying attention to age would be that there are going to be some changes in the age composition of the labor force. Selecting purposely younger immigrants could ease adjustment in the U.S. economy whose labor force will age in the foreseeable future. That is another rationale for selecting age as a criterion.

Thank you.

Senator SIMPSON. Thank you.

[The prepared statement and submissions of Professor Rosenzweig follow:]

PREPARED STATEMENT OF MARK R. ROSENZWEIG

a. The Current Law: Family Reunification and the Fifth Preference Category

In considering changes in U.S. immigration law it is necessary to examine whether the criteria currently used for admitting immigrants best serves the overall interests of the United States. The selection criteria embodied in the current law pertaining to the numerically limited groups principally and explicitly serve the interests of recent U.S. immigrants with respect to their desires to be reunited or to maintain their relationship with relatives. The only additional selection criterion applied to the group of "family" immigrants, who constitute over 95 percent of all immigrants, (in addition to the exclusion provisions) is based on the immigrant's country of origin, operating via the country ceiling provisions. Less than 5 percent of immigrants admitted each year are "screened" with respect to their labor market impact or economic contributions.

Reunification of spouses and reunification of parents with children, as well as the freedom of U.S. citizens to marry foreign-born persons without restriction, appear to be overriding objectives of immigration policy. Less clear is the rationale for the priority accorded the fifth preference category, in which brothers and sisters of adult U.S. citizens become "qualified" for immigrant visas, subject to only country-of-origin and exclusion restrictions. Whatever the rationale for it, the "sibling" preference differs from those family preference categories involving parents, spouses and children in one important respect. Unlike the other categories, the allotment of visas based on "sibship" potentially leads to an unlimited demand for visas by new qualified applicants. For example, the admission of one immigrant who has foreign-born siblings or who marries an individual with foreign-born siblings automatically creates additional potentially qualified visa applicants, who, when admitted, can petition for the siblings of their spouses. Indeed, if the immigrant's parents are admitted, they can in turn petition for their brothers and sisters resulting potentially in the addition of the brother and sister in-laws, uncles, cousins, etc. of the original immigrant.

The fifth preference "visa multiplier" is mainly responsible for the

current large backlog of immigrant visas -- one-half of the one-million "qualified" immigrant visa applicants in the backlog, as of January 1979, were fifth preference immigrants, even though in FY 1978 over one-fourth of all immigrants admitted came through the fifth preference. As almost one-half of all fifth preference immigrants are from Asian countries, it would appear that the recent wave of Indonesian refugees may eventually result in a larger future backlog of qualified visa applicants due to the fifth preference multiplier. Thus even if the reunification of brothers and sisters were thought to be an overriding criterion for admission of immigrants, it is clear that it is not sufficiently restrictive so as to balance the demand for visas by qualified applicants with the current supply of available visas. Moreover, the backlog of fifth preference applicants means that each year the selection of immigrants within this category depends solely on the date of application and country of origin. This rationing device (queuing) does not clearly serve the interests of even the group of U.S. citizens petitioning under this category.

Admitting immigrants solely on the basis of having a brother or sister residing in the United States may be desirable if such a criterion is compatible with or promotes other goals of U.S. immigration policy. It may be, for example, that such immigrants have as little adverse effects on the labor market as those who are "screened" through labor certification or that fifth preference immigrants integrate economically as successfully as other immigrants presumably chosen according to more economic criteria (third and sixth preference). Unfortunately good data do not exist which allow comparisons of immigrants admitted under all of the different preference categories.[1] Based on a probability sample of all immigrants admitted in FY 1971 extracted by the Immigration and Naturalization Service for the Select Commission on Immigration and Refugee Policy, I will present estimates at the hearing which compare the emigration and naturalization rates of fifth preference to other preference immigrants approximately 8 years

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[1] One study of immigrants a number of years after entry, by David North, suggests that fifth preference immigrants do marginally less well in terms of earnings than do other immigrants. However, because the sample is non-representative, conclusions drawn from it have little scientific validity.

after entry.[2] Such rates are indicators of successful integration. Whatever these findings, of course, the attributes of the fifth preference immigrants may change over time and may become more or less compatible with U.S. interests other than family reunification in the future.

b. Selecting Immigrants Using a "Point System"

A "point system", whereby applicants are given point scores or are ranked according to a variety of pre-specified criteria, is a means of selecting immigrants which explicitly recognizes that there are trade-offs or conflicts between the priorities and goals of the United States and that individuals have many attributes, some or all of which contribute to or detract from those goals. Immigrant characteristics or attributes which may contribute to the achievement of U.S. interests could include those which reflect the demand for certain workers, for cultural diversity and for national unity as well as criteria which accelerate integration or provide recognition of family ties.

Prior to a discussion of the desirability of specific criteria, it is important to note that the point system can either be the sole means of selecting immigrants within a category, such as in the "independents" category recommended by the Select Commission, or it may be an adjunct to categories which qualify applicants according to one criterion to further screen those applicants. The point system could be added to the existing preference system, say, as a means of choosing among all the fifth preference visa applications (which will in the foreseable future be greater than the total number of available visas) or among persons admitted in the current third or sixth preference categories to insure that such immigrants were in part serving, or were not in overwhelming conflict with, other priorities. Thus a point system, while not necessarily a substitute for any particular preference category or method of "screening" workers, can improve a system of separate categories which admit all immigrants satisfying any one criteria by striking a balance between criteria which are not compatible. For example, the overall goal of "protecting"

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[2] The data were analyzed jointly with Professor Guillermina Jasso, University of Michigan.

U.S. workers, when only 22,000 immigrants out of 450,000 admitted are screened, as in 1978, is clearly not effectively met by current law, whatever the desirability of the goal, because of the admissability of any U.S. citizen immediate relative. Obviously all immigrants have some impact on the economy; moreover, immigrants screened only by economic criteria also affect the cultural fabric of U.S. society.

The direct conflict between economic and family unification goals is particularly evident under current law in the third and sixth preference categories. In those categories, only one immigrant applicant from a family - "the principal" - is screened, with immediate family members of principals admitted subject only to the exclusion criteria. Yet, for example, the female spouses of the principals are likely to have developed fewer market skills and to work, therefore, in just those "less skilled" occupations, at least initially, which are being "protected". A point system could be used to assess the qualifications and multifaceted impact of the entire immigrant family.

c. Characteristics of Immigrants, U.S. Interests and the Canadian Point System

In Canadian immigration law, the point system is used to evaluate certain categories of immigrants. Foreign-born close family relatives of Canadian citizens are exempt from the test, but the system is applied to a number of immigrant categories, with minimum point scores differing by category. There are ten selection criteria used, which reflect concern about the economic success; the local labor market, cultural and demographic impacts, and family ties of immigrants. I will discuss briefly some of the objective criteria used in the Canadian system with respect to 1) the evidence on their associations with the behaviors and impacts of immigrants in the U.S. and 2) their applicability to the United States. It should be noted that the most reliable information on the behavior of the foreign-born comes chiefly from two data sources - the 1970 Census of Population and 1976 Survey of Income and Education (SIE). The evidence on immigrants thus reflects the differing selection mechanisms embodied in immigration law over the past 30 years or so, up to 1975. Associations between immigrant characteristics and behaviors may be quite different in

the future, given the additional changes in the methods of and criteria used in allocating visas occurring since 1975 or given a new immigration law.

Schooling. In Canadian law, educational level (schooling) contributes to the total point score of a prospective immigrant. The U.S. data indicate that more educated immigrants, from any country of origin, have significantly higher earnings, lower unemployment rates, use less welfare services, are more likely to own their home, and are more able to speak and understand English and tend to speak English in everyday life more readily compared to less educated immigrants. The Canadian system by no means bars the entry of the less educated, since schooling is only one of 10 criteria; vocational preparation and occupation also contribute to the total score.

Age at entry. The available evidence suggests that immigrants who come to the United States at younger ages, all other characteristics the same, are significantly less likely to have difficulties in speaking or understanding English and use less social welfare services. The effects of age at entry on earnings, however, cannot be separated from effects due to current age or length of residence in the U.S., however, because these effects are confounded with each other in the available cross-sectional data (information taken on individuals at one point in time). A rationale in the U.S. for favoring younger immigrants is that the average age of the native-born labor force will be increasing in the foreseeable future, given native fertility trends; selecting younger immigrants will tend to reduce any adjustment costs associated with changes in the demographic composition of workers. In recent years, the mean age of newly admitted immigrants has been about 5 years younger than that of the native population (25 compared to 30); those admitted in the occupational preferences, however, have been less than 2 years younger, on average, than the native population. Of course, favoring younger immigrants tends to depress the wage rate of the young relative to the old, but the wage rates of the young will likely be increasing relative to that of older workers in the future, given the demographic trends. Little evidence exists on the consequences of the "aging" of the U.S. population (with the exception of the funding for the Social Security System).

Knowledge of English (and French). The Canadian point system creates incentives for visa applicants to learn the official languages of their new residence. Evidence obtained from a Select Commission study of the 1976 SIE suggests that in 1975-76 more than one-fourth of all the foreign-born in the U.S. aged 25 to 64 had difficulty in speaking English, despite the fact that the average immigrant at that time had been in the U.S. 15 years. Surprisingly, however, the data suggested that among the male foreign-born, there was little (no statistically significant) association between economic success (earnings, unemployment) and English language ability; for foreign-born women, earnings were about 10 percent less for women reporting English language difficulties. Since the most significant group among the foreign-born with English language difficulties was from Spanish speaking countries, these results, while they cannot be interpreted as the "causal" effects of language skills, suggest that the U.S. economy accomodates a language other than English. Put another way, the U.S. private sector appears on average not to provide incentives for a large number of immigrants to learn English. If the social, political, and cultural consequences for the United States of language barriers between resident groups are seen as problematical, then the addition of an English language skill incentive (the lack of any one attribute does not necessarily bar entry under a point system) in immigration law would be useful.

Relative. Being a relative of a Canadian citizen, among prospective immigrants who are not immediate relatives, is seen as a desirable immigrant trait in the Canadian point system. It is likely that family members facilitate economic integration, although there is little evidence on the role of non-immediate relatives in the process of immigrant assimilation. This criterion in any case serves the goal of reuniting broadly-defined families, as in the U.S. preference system.

Arranged Employment or Designated Occupation, Occupational Demand. These two criteria used in the Canadian point system are similar to those used in the U.S. labor certification process - certain occupations are favored over others and a job offer is deemed desirable. The Canadian law thus illustrates the integration of labor market impact criterion into a multicriteria point system, where it is not the sole criterion.

Location. The location in Canada of the prospective immigrant's intended residence is used as criterion in the Canadian point system. It should be noted that distribution of the immigrant population is significantly more concentrated in Canada than in the United States and that the ratio of the annual flow of immigrants to the overall Canadian population is about twice that of the United States. As a consequence, concern about local impacts of immigration are much more significant in Canada. Given the high geographical mobility of the U.S. population, and the foreign-born in particular, the use of intended, initial residence as an important criterion for selecting immigrants would appear less desirable in the U.S.

Personal Suitability. The most significant difference between the Canadian and U.S. Immigration laws is in the discretion accorded immigration officials in determining immigrant qualification. This criterion clearly reduces one advantage of a point system - its objectivity; it is a criterion in which neither the weights given immigrant characteristics nor the characteristics themselves are explicitly specified. On the other hand, the personal interview is a means by which those important and desirable personal characteristics of immigrants which cannot be readily quantified such as drive, ability, "get up and go" can be detected; "statistical" discrimination is thus somewhat reduced.

In sum, the Canadian point system attempts to deal with many of the goals embodied in current U.S. immigration law, as well as others, some of which are pertinent to U.S. interests. The system also illustrates the difficulty of choosing among potential immigrants who are not immediate relatives of citizens to meet national goals, while at the same time maintaining fairness and "openness". As long as the number of persons in the world who would like to emigrate to the United States exceeds the number of immigrants whom the U.S. would like to admit, however, it is necessary to establish criteria by which immigrants are selected, to choose. Whatever the criteria chosen, because of the not insignificant private costs and risks entailed in cross-national migration, immigrants are likely to be positively self-selected and thus are likely to be serving the overall U.S. interests under most any selection system.

ATTACHMENTS.

Naturalization and Emigration of the FY 1971 Immigrant Cohort, Eight Years After Entry[a]

	Percent Naturalized	Upper-Bound Emigration Estimate[b]	Percent Naturalized of Those Known to be Here
All Immigrants	22.1	52.5	46.5
Eastern Hemisphere[c]	34.3	42.6	59.8
5th Preference	21.9	53.6	47.2
Non 5th Preference	37.6	39.6	62.3
Western Hemisphere	7.98	63.9	22.1

[a]'Entry' refers to admission to permanent residence status.

[b]For a detailed discussion of the data and methods used in obtaining these figures, see Guillermina Jasso and Mark R. Rosenzweig, "Estimating the Emigration Rates of Legal Immigrants Using Administrative and Survey Data: the 1971 Cohort of Immigrants to the United States," presented at the IUSSP Conference, Manila, Philippines, December 1981.

[c]In 1971 the preference category system only applied to Eastern Hemisphere immigrants.

A. Data Sources

1. The FY1971 Cohort of Legal Immigrants -- The principal data source is a probability sample (n = 3758) drawn from the cohort of persons admitted to permanent resident status in FY1971 (N = 370,478). Following the definitions of U.S. immigration law, the term "immigrant" is used synonymously with the term "permanent resident alien," and denotes a person admitted to this legal classification. The 1971 cohort includes both persons newly entering the United States (of whom there were 297,153) and persons already in the United States (of whom there were 73,325); all, however, share the characteristic of being newly admitted to the "immigrant" classification. Viewed along a different dimension, the cohort includes both persons subject to the numerical limitations of U.S. immigration law (of whom there were 280,626) and persons exempt from numerical ceilings (of whom there were 89,852), chiefly the immediate relatives of U.S. citizens. Cross-classifications of these and selected other characteristics are provided in the INS Annual Report (1971). The original data records for persons admitted to immigrant status are contained in the Immigrant

(G-188) file. Records are identified by name and Alien-number, thereby enabling record linkage with other INS files.

The 1971 immigrant cohort sample was matched to the INS' naturalization records for each year through the end of FY1978 (see footnote 2). The non-naturalized portion of the cohort sample was then matched to the INS' Alien Address Report files for January of 1979. The complete data set thus contains observations on one set of variables (the entry variables) for FY1971 for all individuals in the sample, on another set of variables (the naturalization variables) for one sub-group of the sample, and on a third set of variables (the address report variables) for another, non-overlapping sub-group of the sample. The emigration problem may be regarded as a directly substantively meaningful version of the missing-data problem in the analysis of longitudinal data.

2. Naturalization Records -- Naturalization is the granting of U.S. citizenship to a person after birth. U.S. nationality law requires that an applicant for naturalization have been a permanent resident alien for five years; the principal peacetime exceptions reduce the requisite time period from five to three years for the spouses of U.S. citizens and to two years for the adopted children of U.S. citizens. In addition, special legislation has been passed to assist the naturalization of refugees. The INS stores information on naturalized persons in the Naturalization (G-173) file; data records are identified by name and Alien-number.

3. Annual Address Report Program -- The United States has since 1951 required the annual registration of aliens, in accordance with the provisions first of the Internal Security Act of 1950 and subsequently of the Immigration and Nationality Act of 1952. This registration program, conducted in January of each year as a self-report on an official INS form/questionnaire, yields basic information on the alien population of the United States. This system does not cover aliens who become naturalized citizens of the United States. The data records include information on legal classification (e.g., permanent resident alien or visitor) as well as date of admission to present immigration classification; identifying data are name and Alien-number. These records are known as Alien Address (I-53) file.

B. Procedures

1. Obtaining Upper-Bound Estimates -- In order to obtain upper-bound estimates of emigration, we begin with two components-of-population equations. The first equation states that

$$P = I - D - E , \quad (1)$$

where I is the number of persons who became permanent resident aliens of the United States during FY 1971, D is the number of members of the FY 1971 cohort who died prior to January 1979, E denotes the FY 1971 cohort members who are alive and no longer resident in the United States by January 1979, and P denotes the cohort members who are alive and resident in the United States in January 1979.

The second equation describes the cohort in terms of the members' naturalization and address reporting behavior:

$$P = C + R + N , \quad (2)$$

where C is the number of cohort members who became naturalized citizens of the United States by the end of FY 1978, R denotes the cohort members who reported their addresses in January 1979, and N denotes the cohort members who are alive and resident in the United States in January 1979 but who did not report their addresses to the INS.

Re-stating equation (1) to solve for the number of emigrants,

$$E = I - D - P . \quad (3)$$

Substituting (2) into (3) yields

$$E = I - D - C - R - N . \quad (4)$$

If all aliens residing in the United States reported their addresses and if no deaths occurred, then (4) reduces to

$$E = I - C - R . \quad (5)$$

Since D and N can assume only zero or positive values, and since

$$E + D + N = I - C - R , \quad (6)$$

it follows that an estimate of emigration obtained from I, C, and R is upwardly biased. That is,

$$(I - C - R) \geq E . \quad (7)$$

This figure is upwardly biased by the sum of non-reporters and of deaths of non-emigrants. Thus, it is the upper bound to the true emigration and will

be denoted E_U so that

$$E_U = I - C - R . \quad (8)$$

The statement in (8) contains the assumption that no cohort members emigrated after naturalizing. This assumption can be defended on the substantive grounds that naturalization overrides emigration as an indicator of immigrant success. In fact, it might be substantively appropriate to define a special measure for the emigration of immigrant aliens.

Since deaths can be estimated with some precision, a second estimate can be obtained from the following re-statement of equation (4):

$$E + N = I - C - R - D . \quad (9)$$

This statement may be interpreted in two ways: First, if the additional assumption is made that no one emigrated prior to dying, then it is a refinement of the first estimate. Second, regardless of the emigration behavior of the dead cohort members, it measures the emigration of those persons who are currently capable of being emigrants or U.S. residents, viz., of cohort survivors.

The estimate obtained from I, C, R, and D is also upwardly biased. That is,

$$(I - C - R - D) \geq E . \quad (10)$$

This estimate will be denoted E_U^* so that

$$E_U^* = I - C - R - D . \quad (11)$$

This last estimate is not as upwardly biased as the first. That is,

$$E_U^* \leq E_U . \quad (12)$$

These estimates of emigration are used to derive estimates of emigration rates. From E_U is derived the upper-bound to the emigration rates based on the original entry cohort,

$$\frac{E_U}{I} = \frac{I-C-R}{I} = 1 - \frac{C+R}{I} . \quad (13)$$

From E_U^* is derived the upper-bound to the emigration rates based on the cohort survivors,

$$\frac{E_U^*}{I-D} = \frac{I-D-C-R}{I-D} = 1 - \frac{C+R}{I-D} . \quad (14)$$

These upper-bound estimates of emigration rates are obtained by "observing" the 1971 immigrant cohort sample through January 1979. Observation is

simulated by linking the immigrant, naturalization, and address report records. The procedure followed first searched all the naturalization files through the end of FY 1978 for records whose names and Alien-numbers matched those in the sample's immigrant records. This procedure yielded the sample estimate for the C term. Second, the 1979 address report file was searched for records which matched those in the immigrant records of that portion of the cohort sample which had not been matched to the naturalization records. This procedure yielded the sample estimate for the R term. Thus, for each person in the cohort sample, information was obtained on his/her subsequent naturalization or address report.

The cohort survivors are estimated by adjusting the original cohort for mortality, using 1977 U.S. life tables for the white population.

English Language Ability and Economic Success Among the Foreign-Born*

Approximately 25 and 29 percent of foreign-born males and females aged 25 to 64 residing in the United States in 1976 reported difficulty in speaking English. This information was obtained from the most recent (1976) national probability sample of the U.S. population available for analysis, the Survey of Income and Education. The same data reveal that lack of English language skills is associated with only somewhat lower economic success, on average, among immigrants and refugees with otherwise comparable characteristics. Among foreign-born females of the same age, length of residence, and country of origin, the SIE data indicate that those with difficulty in speaking or understanding English:

- have 10 percent lower earnings,
- are 5 percent less likely to be in the labor force,
- are 17 percent more likely to be unemployed,
- are 16 percent less likely to own a home.

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*Prepared from a study by Guillermina Jasso and Mark R. Rosenzweig.

Among foreign born males with similar characteristics, those with difficulty with English:

- have 3 percent lower earnings,
- are 3 percent less likely to be in the labor force,
- are 1.7 percent more likely to be unemployed,
- are 17 percent less likely to own a home.

While most of these associations cannot be measured with much precision, and are small for males, as indicated in Tables 2 and 3 where the regression coefficents are reported, foreign-born males with English language difficulties are 79 percent more likely to be receiving public assistance and their families receive 33 percent more welfare payments per year. Both of these associations are statistically significant. Interestingly, despite the statistically significant association between lack of English language skills and earnings for the female foreign-born, those foreign-born women with this deficiency are no more likely to be receiving public assistance. This may suggest that lack of such skills impedes the access of women to the U.S. welfare system.

These findings do not indicate that lack of English language ability in the United States is a severe handicap to economic success, particularly among males. There appears to be little economic incentive, therefore, for new immigrants to undergo the cost of acquiring such skills, which may account for the relatively high proportion of the foreign-born without them.

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Table 1

Percent of the Foreign Born with Severe[a] Difficulty in Speaking English, by Country-of-origin Groups and Sex, Persons Aged 25-65 in 1976

	All Foreign-Born	Poland and Russia	Cuba	France, Germany, Greece, Italy, Portugal, Scandinavia	Mexico	Canada and England[b]	China, Japan, Korea Philippines, Vietman
Male	25.2	12.7	30.2	19.0	37.0	40.5	18.6
Female	29.0	16.8	38.9	19.3	47.0	47.1	21.6

Source: 1976 SIE

[a] Either no English speaking ability or very limited English vocabulary.

[b] Included an unknown number of French-speaking Canadians.

Table 2

Economic Effects of Lack of English Language Skills, Controlling for Country of Origin, Length of Residence, Age and Education: Foreign-Born Males Aged 25 - 64 in 1976

Variable	Mean	Coefficient	Standard Error
Probability of Labor Force Participation	.899	-.018	.011
Probability of Being Unemployed	.051	.00086	.0086
Annual Earnings	$11,568	-340	312.37
Probability of Receiving Public Assistance	.011	.0085	.0038
Annual Family Public Assistance Payments	$72.0	23.5	15.84
Probability of Owning Home	.521	-.091	.017

Table 3

Economic Effects of Lack of English Language Skills, Controlling for Country of Origin, Length of Residence, Age and Education: Foreign-Born Females Aged 25-64 in 1976

Variable	Mean	Coefficient	Standard Error
Probability of Labor Force Participation	.539	-.027	.015
Probability of Being Unemployed	.045	.0075	.0064
Annual Earnings	$3,223	-319	135
Probability of Receiving Public Assistance	.024	-.0042	.0046
Annual Family Public Assistance Payments	$120	4.30	18.69
Probability of Owning a Home	.541	-.087	.015

Senator SIMPSON. Professor Chiswick, in your testimony you stated that immigrants from less-developed countries, particularly in Mexico, tend to earn less than others even after other variables that determine earnings are held constant. What is your thought about why that is?

Mr. CHISWICK. One reason for that might be the following. Those from high-income countries, say northwest Europe, would be willing to migrate to the United States only if they could have high earnings here. Someone from a very low-income country, in which they had low-income prospects, could be willing to come to the United States even if they did not do as well as somebody from northern Europe. Remember, the appropriate comparison is my earnings in my country of origin versus my earnings in the United States. Thus, from high-income countries you would tend to get immigrants that would do well economically here and that would be less intense for people coming from low-income countries.

Senator SIMPSON. In your testimony, too, you appear to recommend that this immediate-relative category, which is not now subject to numerical limitations of any kind, be limited to spouses, minor children, and aged parents. Under present law, all parents of adult U.S. citizens are covered.

It is interesting to me, because it is consistent with my thought that the immediate-relative category should be limited as necessary to bring in only the nuclear family of adult U.S. citizens, and that might well include aged; surely it could well do that, dependent parents, but perhaps not others.

Could you expand on that suggestion a bit, please?

Mr. CHISWICK. Yes. I purposely put in the term "aged." I think, in part, there tends to be an abuse comparable to the fifth preference. You get a mushrooming that is unintended. Somebody gets a labor certification, they then bring in their parents and then the parents can then bring in their other children. I do, however, feel that aged and disabled parents would fall into a separate category, but that they then should not be used as a sponsor for bringing in other relatives.

One of the important things to remember in terms of immigration is the U.S. Government does not send helicopters to other countries and kidnap people and then bring them to the United States. The migration that we are talking about is voluntary.

The family breakup that we are talking about is due to a person choosing to leave the home country. And so the family breakup is not the consequence of U.S. policy. The family breakup is a consequence of somebody choosing to leave a country and come here and then the petition is, "Well, let me now bring over my relatives."

It is a shorter distance between Boston and London than it is between Boston and Hawaii. Air fares between Boston and London are lower than between Boston and Hawaii. With mail being rapid in comparison with earlier periods, telephones now being accessible, visitor permits easy to obtain and air transportation relatively inexpensive, my English and Scottish relatives and I have a great deal of communication and contact, even though we do not live in the same country.

Senator SIMPSON. An interesting point, indeed. We will develop it a bit more, since it certainly is an act of the will to do that, to be

an immigrant. And there are certain conditions and sacrifices that are weighed by those, because they are under no compulsion. I think we lose track of that sometimes in the midst of refugee issues, because I have found in my travels in this game that you can talk to a very knowledgeable and articulate citizen and begin to describe emigrees, immigrants, asylees, refugees, nonvisa immigrants, you know, it is all the same to them. They do not make the distinctions. That is what I have found, anyway.

And these are not people who are not paying attention. It is an extraordinary array of definitions that we use in this game, and a lot of tumbling around of definition. Trying to sort it out is sometimes very difficult. I know indeed it is.

You did state that physicians, nurses, physical therapists, dieticians, among others, are added or withdrawn from the list of most favored occupation not always on the basis of labor market studies but on the basis of the consequences of political pressures of interested parties. I was interested if you could just briefly furnish me your reasons for that view and then what is your view of the administration proposal?

Mr. CHISWICK. The source of my information is actually the Office of Labor Certification in the U.S. Department of Labor. This office has assured me that they did not have any studies indicating why some of those various categories were put on or taken off the schedule A list over the last few years. And in fact, the explanation for the change of status of dieticians was a letter from the American Dietetics Association claiming that the United States was being flooded with foreign-born dieticians.

I think the administration's policy in reducing the extent to which specific employers have to go through a certification process is a move in the right direction. There is substantial abuse of the labor certification procedure. Many people will take a job in the United States legally or otherwise, and the employer will attempt to get a labor certification so they can become permanent resident aliens. Or if some kinsman owns a business, he may be willing to go out of his way, perhaps, to get a labor certification for the relative.

The intent of the labor certification is to attract the most highly skilled workers needed in the U.S. economy. The way it is structured now, this is not the case. Only one-third of labor certification recipients are outside the United States at the time they receive their permanent resident visa. Two-thirds of them receive an adjustment of status, meaning they are already here.

But there is still a fundamental problem with the administration's policy, and that is focusing on specific occupations. It will run into the same problems that we now have, and the problem that we heard earlier from the representatives of the engineers. He was quite honest that he did not like the idea of foreign-born engineers coming into the United States and lowering the wages of engineers. I do not like the idea of foreign-born economists coming into the United States and lowering the wages of economists. And so it will become an issue as to who is more powerful, the engineers or the economists in determining which occupation is not on the favored list.

For that reason, I favor using broadly defined skills so that any one occupation does not have an incentive to try to lobby the Labor Department to remove that particular occupation.

Senator SIMPSON. Yes, that is of great interest.

Professor Killingsworth, another economist—Michal Walchter, I believe—and we have had testimony about this in the course of hearings from others, other than economists—has predicted a shortage of unskilled manpower in the United States by the end of the 1980's, which I must admit surprised me when I first heard it and still does somewhat.

Do you agree with that prediction? And what implications do you think it has for our immigration policies?

I guess in particular I would be interested in your view as to whether this means the United States should bring in unskilled foreign workers or invest additional capital to substitute technology and machines for many of those jobs. Your views would be important.

Mr. KILLINGSWORTH. OK. On the first point, is it going to happen, I think anybody recognizes, or everybody recognizes, that trying to forecast the future is tough. I do not think that there is any gross defect in what Mike Walchter has done, so that although, subject to the caveat that that kind of exercise is inherently very hazardous, those seem to me to be about the most reasonable sets of numbers that we have got to go on.

As far as what does the prospect of a reduction, a relative reduction at least, in the number of unskilled workers in the United States portend for immigration policy, it is simply not clear.

And the reason is simply this: That on the one hand if we do not as a result of this forecast admit large numbers of unskilled immigrants, then it may well be that case that at long last the wages of unskilled workers will start to increase and increase rapidly. To some extent, a substitution of capital for unskilled labor will then take place, precisely because of those wage increases.

But on the other hand, the unskilled workers are then going to, as it were, come into their own. Now, that is good news for them if they can hang on that long. However, it will be good news for the cohort of unskilled workers who will be entering the labor market in the next decade or so.

On the other hand, it is bad news for some of the rest of us, because if we consume products that are produced using a lot of unskilled labor, then that may mean that we will have to pay more. It is a tug of war, because for the rest of us, we may be very much attracted to the notion of bringing in additional unskilled workers.

And I think both Mike Walchter and other economists, such as George Johnson, have emphasized that there are no goodies and baddies in that sort of situation, and I think essentially what it boils down to is a value judgment.

Senator SIMPSON. Yes; how do you think this aging and slow growth of the U.S. labor force affect U.S. productivity over these next 20 or 30 years? How do you view that?

Mr. KILLINGSWORTH. I simply have no forecast of that kind at all. I think I would be silly to try and make one.

Senator SIMPSON. Now, that is an excellent answer. We just do not get many answers like that. [Laughter.]

I am going to etch that one on the edge of the panel up here. I appreciate that kind of candor.

But if you were envisioning and dreaming a bit, what would be your thought about that impact on productivity?

Mr. KILLINGSWORTH. I am less concerned about changes in their numbers than I am about changes in quality and the various things that go with that. That will depend on, say the school system and the system of higher education, the behavior of capital stock, and so forth.

And one reason why I think forecasting is very dangerous in this area is simply because as we have seen in the space of the past approximately 11 months, Government policy can change substantially, and that can knock all forecasts into a cocked hat.

Senator SIMPSON. Well, is that not so true in every way—in just that 11-month period. Indeed, it is so.

Mr. KILLINGSWORTH. Including the Government's own forecasts, I should add.

Senator SIMPSON. Yes. Including their own.

Professor Chiswick testified that low-skilled immigrants widen income inequality and that if income transfers are used to mitigate the losses of low-skilled natives and if immigrants participate in the transfer system, then the native population as a whole is less well off. Average income of the total population, including the immigrants, then declines. I think that is maybe, in essence, a view.

How do you view those comments of Professor Chiswick on those issues?

Mr. KILLINGSWORTH. I think the one difficulty—and I think everyone appreciates the difficulty with making statements of that kind—is that to a large extent it depends on empirical magnitudes that we really do not know very much about.

For instance, to what extent is it the case that illegal immigrants or unskilled immigrants do in fact make use of the transfer system? Clearly, if every illegal immigrant gets $4,000 a year from our system of transfers, then it is quite likely that Americans, native Americans as a whole, may lose.

On the other hand, and precisely because th nmigration is illegal, it is very difficult to get a handle on th kind of question.

One also sees statistics to the effect that illeg immigrants, precisely because they are illegal, may very often be afraid or ineligible to receive various kinds of transfer benefits.

So one is at sea. The numbers that one would need in order to answer that question clearly and forthrightly just simply are not there.

Senator SIMPSON. You certainly are well-versed in the areas you address. And I remember, although I did not get to stay for that portion of the Rockefeller-Ford Conference at Williamsburg, I remember you were addressing the issue of the effect of immigration in the United States on the labor market and the analytical and policy views which are going to fit well in our eventual reform and revision.

I think of, for example, aspects of the labor certification process. We had some interesting testimony about that this morning.

I may come back for one, but right now let me go on to Professor Rosenzweig. I know the work you did for the Select Commission,

where you served very credibly as a research director for a time. I would ask you to comment on the recommendations with regard to the preference system that appeared in the Select Commission's final report. What are your comments on those final recommendations?

Mr. ROSENZWEIG. Well, you have asked me just the question that I do not want to answer.

Senator SIMPSON. I see. [Laughter.]

Mr. ROSENZWEIG. I prefer to answer the questions about the aging effects of the population and to just comment on the recommendations and talk about the evidence on them, rather than that. There was a whole set of detailed recommendations there.

Senator SIMPSON. You may do that if you wish, and skip it.

Mr. ROSENZWEIG. Let us skip it.

Senator SIMPSON. All right. It is certainly there to be reviewed.

Regarding the preference system, as I recall, it was an entire afternoon or day of hearing, a grisly experience for me, I remember, because when you get into the one, two, three, four, seven kinds of preferences and the backlog and the difference in treatment for backlogs and then the numerical limitations and the per-country limitations, I dare say the fog rolled in from the sea that day on many of us on the Select Commission.

Would you concur with that commentary?

Mr. ROSENZWEIG. Yes; I certainly would. It is a tremendously complex law that if you approach it from the beginning and say who do we want to admit, it is hard to think that that is the law that we would construct. And I think that the Select Commission's recommendations went toward improving it.

But when it came to some of the critical questions, it did not resolve very many. I think the point system is a good idea, which should be and was taken seriously.

I think getting rid of the fifth preference is something that may have to be done, given the situation in terms of what it does with respect to the numbers. There is now some emerging evidence that the fifth preference is not serving U.S. interests very well and because of the numbers situation may be keeping out others who might.

So I think that the attention paid to those two issues is a good thing, indeed.

Senator SIMPSON. I think that that is the most confusing area, if I may. It was for me the most confusing area, the preference system, how we got to that point, and the numbers and the use and the misuse. I saw that reflected in my colleagues, too, on the Select Commission.

Well, you did remark that the sibling preference differs from those family preference categories involving parents and spouses and children in one important respect, and that was the aspect of what you refer to as the "visa multiplier effect." And I would very much appreciate your expanding on that, please, for the record, and supplying the subcommittee any statistics that you have on that, if you would, please.

Mr. ROSENZWEIG. Surely. The basic idea of the visa multiplier is that, to take an example, if you admit one immigrant, for whatever reason, and that immigrant has a foreign-born sibling, then once

that immigrant becomes a citizen, of course, the immigrant has the right to bring in the foreign-born sibling, and that foreign-born sibling then becomes eligible for a visa once it is petitioned by the citizen.

Now, if this immigrant also marries, then the spouse of this immigrant can then petition for her or his brothers and sisters. Once they come in, they can petition for their parents, who can petition for their brothers and sisters. And eventually, you see that just on the basis of letting in one immigrant, you can potentially make eligible sisters-in-law, brothers-in-law, cousins, uncles, aunts. And so it is misleading to think of it as only allowing in brothers and sisters.

Now, to a certain extent, there is some mushrooming, as Barry has pointed out, with some of the other categories. But for the most part, that is confined to bringing your parents and children, and you cannot extend horizontally to other family members.

Now, you can look at the data and see that most of the backlog, half of the backlog, is composed of these fifth-preference immigrants. And from 1 year, I think it was 1977 to 1978, the number of fifth-preference people in the backlog doubled, partly as a consequence of some of the changes in the law that occurred in 1977.

And there are some special characteristics of fifth preference, immigrants, as I mentioned, with respect to emigration; it is also true that it is heavily skewed toward Asian immigrants, and so it affects the composition of immigrants very much.

Mr. CHISWICK. Excuse me. If I might provide an anecdote.

Senator SIMPSON. Yes, if you would, please. Please feel free to.

Mr. CHISWICK. Last Friday, when coming back from Washington, I took a taxi from O'Hare to my home in Evanston, and I had a cabdriver who, by his accent, was obviously not native born. As I am apt to do, we got into a conversation. He happened to be a Jordanian who came to the United States under a student visa, was not doing well in school but wanted to stay in the United States and obtained a "green card," resident alien status.

I asked him how he did it. He said he has an uncle who is in the United States. I said, "But that is not good enough. An uncle is not good enough."

Ah, his uncle brought over his mother, who really did not want to come here, but since his mother was here, she was able to get him, my cabdriver, an adjustment of status, and that accomplished, she went back to Jordan where she really wanted to live.

That is one of the examples of the use of the sibling preference in a manner that is not really intended in immigration law.

Thank you for letting me interrupt.

Senator SIMPSON. Well, that was very helpful.

Do you have one to add like that?

Mr. KILLINGSWORTH. No. [Laughter.]

Mr. ROSENZWEIG. I cannot top that. [Laughter.]

Senator SIMPSON. Just one final question, I think, Professor Killingsworth. You stated that immigrant labor increases the supply of labor, which of necessity reduces the wages of American workers. You also point out that permitting an American employer to import labor may simply keep wages from rising. That is a possibility. The administration proposal and the present labor certification

law requires that the employment of the alien not adversely affect the wages of American workers.

If I understand your comments, such a standard really could never be satisfied if the words "adversely affect" were interpreted as not only reduce but also to "prevent increases in" that.

Is that so? Where are with that?

Mr. KILLINGSWORTH. Well, if the question is will an influx of immigrants in a particular skill group—call them unskilled or skilled, it does not matter, but call them skill group *X*—what will the effect of that be on native Americans in the same skill category? Well, I cannot think of a single economist who would disagree with the position that that is going to make the wages and possibly also the employment levels of American workers in the same skill category lower than it otherwise would have been.

Now, the catches, of course, would have been how do you measure that? All we really know is what in fact has happened. So it is perfectly possible that in the real world, if we see an influx of immigrants, we may actually see that the wages of American workers in the same skill group are just flat, stable.

However, the inference then would be that but for those immigrants, wages would have increased. That actually goes back to the question you raised a little while ago about the alleged shortage or at least relatively smaller than we have had in the past of supplies of unskilled workers that seem to be in prospect for the future.

One other thing that I would like to add because I may not have made it sufficiently clear is that there are side effects of a change in wages for skill group *X* on other skill groups of *Y*, *Z*, and so on. And I think it would be fair to say, number one, that as a matter of pure economic analysis, it is not possible to way which way those side effects will go.

In other words, it is not possible a priori to say that having more unskilled workers, which would certainly depress their wages, will necessarily either raise or lower the wages of skilled workers, American workers; or the reverse, having skilled workers, it is very difficult to say a priori whether that would necessarily increase or reduce the wages of the less skilled.

Now, that is another way of saying that we need evidence on that. Unfortunately, the evidence on that kind of question is very difficult to interpret and, frankly, rather fuzzy. One study suggests, based on some econometric evidence, that the unskilled would lose if more skilled workers were brought in and wages would drop. Other studies suggest just the opposite.

Senator SIMPSON. Yes.

Mr. CHISWICK. May I interject on that?

Senator SIMPSON. Yes, please.

Mr. CHISWICK. Maybe we should not have a dispute among the economists here. But most studies that have looked at the aggregate economy suggest that if you consider broad skills categories, such as skilled and unskilled workers, there exists complementarity. That is, an increase in the supply of skilled workers raises the wages of unskilled workers, and an increase in the supply of unskilled workers not only depresses the wages of the unskilled but raises the wages of skilled workers and the return to capital.

If you apply those studies that have been done for the U.S. economy to the question of immigation, they imply that an increase in labor of a given category from immigration raises the wages of the other skill group.

Senator SIMPSON. I see.

Mr. CHISWICK. So I do not think it is as ambiguous as has been implied.

Senator SIMPSON. One final question I would ask of Professor Rosenzweig about the point system, because you mentioned the point system and we had some discussion about that this morning. I believe you were here throughout that.

The Canadian point system consider language competences, and I think that that is obviously in their policy in order to increase the likelihood of both economic success and assimilation or integration into society, public society. I would appreciate your brief view on whether that would be appropriate in the United States and how it might be considered in practice here.

Mr. Rosenzweig. Well, I think that what little evidence we have suggests that it might be appropriate, but not for the economic reasons, for noneconomic reasons. As I mentioned, if it is thought—well, let me go back. The evidence suggests that the largest group that has inability to speak English, of the foreign-born, are Hispanic. So that there is the possibility of the creation of one additional language in the United States.

It is also true that this group, of non-English speaking males, does not appear to be earning any differently when you control for other factors. That suggests that the private economy is not, in a sense, creating incentives for these people to learn English.

It is also true that some of the lowest naturalization rates—as you know, naturalization requires the ability to speak or understand English—the lowest naturalization rates are also found among Mexican immigrants and other immigrants that are Hispanic and among French Canadians, many of who also do not speaks or understand English.

So that given the lack of economic incentives to do these things and given that we might have a goal that our immigrants that come in through the legal immigration system become good citizens, then we might very well require or give credit in a point system for English language.

It should also be remembered that language skill is an amendable criteria; that is to say, if someone does not have those skills, it is not that difficult to acquire them before entering the United States. That is a little bit different, and it is a difference of degree than, say, requiring a person have, say, a high school education or giving a lot of points for formal schooling. For some people that is out of the question.

But learning a language is an inexpensive endeavor and shows before a person comes their commitment to becoming a citizen. And therefore, I think it might be a good idea which imposes very little cost on the potential immigrant but could have good effects in terms of these goals for the United States.

Senator SIMPSON. I thank you. And also you mentioned in your written testimony that you would present estimates of the relative

immigration and naturalization rates of the fifth preference versus other preference categories.

Mr. Rosenzweig. Yes.

Senator SIMPSON. And you stated some of that. Would you please furnish that for the record?

Mr. Rosenzweig. I will do that, certainly.

[The information referred to follows Professor Rosenzweig's prepared statement.]

Senator SIMPSON. I want to thank all three of you. You are very bright and positive people. It is always good to hear that from witnesses, whether we always agree or not. And you certainly have made fine reputations for yourselves. I appreciate your sharing your abilities with us as you have and do with the staff. Thank you very much. We appreciate it.

At this time we will also receive into the record the prepared statement of Prof. S. K. Saxena, of the Association of Indians in America, and chairman of the Department of Civil Engineering, Illinois Institute of Technology.

[The prepared statement of Mr. Saxena follows:]

PREPARED STATEMENT OF PROF. S. K. SAXENA,
ASSOCIATION OF INDIANS IN AMERICA,
CHAIRMAN, DEPARTMENT OF CIVIL ENGINEERING,
ILLINOIS INSTITUTE OF TECHNOLOGY

I am very thankful for the opportunity provided to me for bringing some concerns of the Asian Indian community before the Senate Sub-committee on Immigration and Refugee Policy.

The reform done on 1965 of the Immigration Act was a very good one. Any modifications of that Act must be based on the fundamental principles of family reunion, the need of skilled people to country's economy and the alleviation of refugee policy.

(A) Family Reunification:

The Asian Indian community is very much family oriented and consequently, the family reunification should be a major goal of the immigration policy from the point of view of Asian Indians. In the Indian culture, the parents live with their children and therefore we urge that family unit should be defined in two categories.

a. Very near family or close family consisting of parents (father, mother, wife or husband and children).

b. Near family including brothers and sisters.

The members of the close family of permanent immigrants should be taken out of the preference system and be allowed to immigrate legally over and above the already established quota. Our reasoning to support this action for Asian Indians based on the fact that the Asian Indian permanent immigrants in U.S.A. are hihgly qualified and professional people and members of their close family will not be a burden on other tax-payers over here.

It is also observed by us that over 90% of the people who are permanent immigrants from Indian sub-continent do ultimately become citizens. Since the Asian immigrants are already in professions which are needed by our economy and are contributing to the overall growth of this country, allowing their close family to come to this country will undoubtedly add their determinations to become citizens and make the final commitment sooner.

(2) The adopted children of the permanent residents should be allowed to immigrate without the residency requirement currently prevailing. At present the adopted children have to reside with their parents for two years which is not possible if the parents are citizens or permanent residence of U.S.A.

(3) Being a closeknit family, often a brother of U. S. citizen wishes to come to U.S. for a visit. His request for a temporary (visitor's) visa is usually denied. The reason for the denial is that such person is viewed very doubtfully because he is eligible to apply for a permanent residence status under Preference 5. Therefore the authorities feel that once he goes to U.S. in the visitor capacity, he will apply for permanent residence. Because of this prevailing doubt, even the person who genuinely wants to

come and visit their brothers, sisters and other relatives in U.S., cannot meet their family members. We therefore recommend that some mechanism should be found and instituted so that brothers or near relative could come on temporary (visitor's) visa.

(4) In the fifth preference system, we propose a modification. We believe that here we are talking about members of the family who are brothers and sisters. Criteria for unmarried brothers and sisters should be kept as it is. However for married brothers and sisters, if he/she happens to have something more than the mere relationships,that is if he/she has a professional talent or fall into the category of job skill needed by this country, then he/she should be given higher preference than somebody who does not have those special talent.

(5) An investor category should be added to the preference system.

(B) I would like to bring now to the notice of the House some other pertinent points which may be applicable not only to Asian Indians but perhaps to all immigrants.

We are hearing that there is a enormous shortage of nurses and engineers in U.S. and therefore visa may be relaxed for these two categories. Often in this kind of relaxation some less qualified people enter the U.S. Once they are here and because they are less qualified they cannot obtain nurses licence or professional engineering licence. They have to work, then, in sub-standard capacity. Our recommendations are that if there is a shortage of nurses and engineers, examinations for testing the professional standard of perspective immigrants in these two professions should be instituted by the American Embassy in the foreign countries from where the immigrants are coming. This would help to insure that only qualified people are coming to the U.S. We will then not be burdened with people who themselves feel miserable working in sub-standard capacity.

Being a Professor and Chairman of the department, I find very very hard to recruit qualified candidates for professorial position. An American holding a Ph.D. degree and wishing to come teaching profession is becoming an endangered species. Naturally we have to look for the people from the outside U.S. - Europe, India or elsewhere.

We are hearing rumours that Preference No. 3 and 6 is going to be removed. We offer our strong opposition to it and recommend that Preference No. 3 and 6 should be retained and the process of labor certification should be simplified. Even in very clear cut cases the paper work is too unwieldy and time consuming.

(C) We would like to bring to the notice of the house the following other relevant points.

(1) Currently there is a provision of 50,000 immigrants from Canada and Mexico being in the geographical vicinity of the United States. While we strongly support this number of immigrants from the neighboring geographical locations, we would also like to advocate a larger number of immigrants from countries with a large number of population, specifically India.

It may be noted that the Indian immigrants have contributed in the overall growth of this country. They are highly professional people. It is perhaps extremely rare to find a person of Indian ancestory on welfare. Perhaps the image of immgrants is

tarnished in this country because of illegal and undesirable persons entering the United States and utilising the resources of other hard working people. This is not true for immigrants from India. They are extremely hard working, professional and competent people and in view of their contributions so far, we urge that the current numerical limitation fixed per year under the preference system should be raised.

(2) There are enormous administrative problems and long delays in processing applications, backlogs and discourteous attitude of employees. It takes about 18 to 24 months for petition to be adjudicated. This is too long a time and must be reduced. Perhaps modernizing the immigration service with a better qualify of people and by use of computerized methods will enormously help. We therefore recommend that there should be a streamlining of the system by (i) adding more people, (ii) modernizing by use of improved computerized system.

(3) We are very much against the point system used by Canada and Australia and we would like to register our opposition to that.

(4) Finally, it may be noted that there is a conservative tone prevailing in the country and there are efforts of sweeping powers to be given to the President for controlling the entry of illegal immigrants. While we strongly advocate that illegal immigrants should be curtailed by every provision of law, we are afraid, that sweeping powers given for controlling the illegal aliens from Haiti and other places in Florida may be used elsewhere for people from other parts of the world. We think the current laws if properly executed can control the influx of illegal immigrants.

Senator SIMPSON. I believe that will conclude our hearing. When is the next chapter in this operation? Monday, the 30th. You see, there is no rest. [Laughter.]

All right. Thank you very much. The hearing is adjourned.

[Whereupon, at 4:40 p.m., the subcommittee was adjourned, subject to the call of the Chair.]

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